



**OHMVR COMMISSION MEETING
Susanville, CA**

April 28, 2017

STAFF REPORT: Legislative Update
STAFF: Liz McGuirk, Chief Deputy Director
SUBJECT: April 2017 California and Federal Legislation Summary Report

Summary

This report provides summary excerpts and status of bills that may affect the Off-Highway Motor Vehicle Recreation (OHMVR) Program. Information contained in this report is accurate as of April 23, 2017.

2016 CALIFORNIA LEGISLATION UPDATE

Senate Bill 1 (Beall) Transportation funding.

Note: This summary will only address Sections 25 and 30 of this bill which amend Revenue and Taxation Code §7360 and §8352.6 regarding the Off-Highway Vehicle Trust Fund.

Summary: This bill maintains the current formula utilized to determine the amount of revenue transferred to the Off-Highway Vehicle Trust Fund. This bill would establish a new gasoline excise tax of 12 cents per gallon and direct the portion of the new excise tax attributable to off-highway vehicle use to the State Park and Recreation Fund, to support state parks, off-highway vehicle programs, and boating programs.

Status: To Enrollment – 4/6/17

Senate Bill 65 (Hill) Vehicles: alcohol and marijuana: penalties.

Summary: This bill would establish a zero tolerance marijuana policy for drivers under 21, and would prohibit consumption of marijuana by the driver or passenger of a motor vehicle. Violations would be punishable as an infraction or misdemeanor. Additionally, this bill would authorize a court to order a defendant to attend a state-licensed driving-under-the-influence program.

Status: Senate Transportation and Housing Committee – Passed (Ayes 10. Noes. 0)
Senate Public Safety Committee – Set for Hearing on 4/25/17

Senate Bill 249 (Allen) Off-highway motor vehicle recreation.

Summary: This bill would make various significant programmatic and administrative changes to the Department's Off-Highway Motor Vehicle Recreation Program, among them: modifying the funding structure; requiring the development of a science advisory team to help the Department and the Division fulfill natural and cultural resource conservation responsibilities; establish measurable soil conservation standards by 2020; and extend the program sunset five years, to 2023.

Status: Senate Natural Resources Committee – Passed (Ayes 7. Noes 2.)
Senate Transportation and Housing Committee – Passed (Ayes 8. Noes 2.)
Referred to Senate Appropriations Committee – Set for Hearing on 5/1/17

Assembly Bill 382 (Voepel) Fuel taxes: Off-Highway Vehicle Trust Fund.

Summary: This bill would eliminate the State Controller transfer of \$833,000 per month from the Off-Highway Vehicle Trust Fund to the General Fund, beginning July 1, 2018.

Status: Assembly Transportation Committee – Passed (Ayes 14. Noes 0.)
Assembly Appropriations Committee – Referred to Suspense File

Assembly Bill 533 (Holden) Off-highway motor vehicles.

Summary: This bill would increase the fine imposed for a conviction of operating an off-highway vehicle without regard for the safety of other individuals or property.

Status: Amended 4/18/17 – Referred to Assembly Transportation Committee

Assembly Bill 1077 (O'Donnell) Off-highway vehicles.

Summary: This bill would extend the sunset on the Department's Off-Highway Motor Vehicle Recreation Program until January 1, 2019, pending the release of a CalTrans fuel tax study, as defined.

Status: Assembly Water, Parks and Wildlife Committee – Passed (Ayes 11. Noes 0.)
Amended 4/5/17 – Referred to Assembly Appropriations Committee

2017 - 2018 115th US CONGRESS FEDERAL LEGISLATION UPDATE**S. 32 (Feinstein): California Desert Conservation and Recreation Act of 2017**

Summary: This bill is an attempt to achieve consensus on the various uses of desert land. This is the result of years of engagement with a range of stakeholders including environmental groups, local and state government officials, off-highway recreation enthusiasts, cattle ranchers, mining interests, the Department of Defense, wind and solar energy companies, California's public utility companies and many others. The legislation also directs the Secretary of the Interior to complete several studies that would include stakeholders and state and local government input.

The bill's key off-highway vehicle provisions:

Designate five existing Bureau of Land Management Off-Highway Vehicle areas (covering approximately 142,000 acres of California desert) as permanent Off-Highway Vehicle recreation areas, providing off-highway enthusiasts certainty that these uses of the desert will be protected in a manner similar to conservation areas.

Status: Introduced 1/5/17 – Referred to Committee on Energy and Natural Resources

H.R. 289 (LaMalfa): Guides and Outfitters Act

Summary: This bill would amend the Federal Lands Recreation Enhancement Act to allow the Secretary of the Interior and the Secretary of Agriculture (USDA) to issue special recreation permits and fees for off-highway vehicle use on certain federal recreational lands, as defined.

Status: 2/10/17 Referred to the Subcommittee on Federal Lands

H.R. 350: (McHenry): Recognizing the Protection of Motorsports Act of 2017 (RPM Act)

Summary: This bill would modify the Clean Air Act to provide an exemption for vehicles used solely for competition.

Status: 1/25/17 Referred to the Subcommittee on the Environment

H.R. 622 (Chaffetz): Local Enforcement for local Lands Act

Summary: This bill would transfer all law enforcement functions on BLM and USFS lands, including those related to off-highway motor vehicle recreation, to local law enforcement agencies. Additionally, the Department of the Interior would provide a block grant to each state to support law enforcement activities.

Status: 2/13/17 Referred to the Subcommittee on Conservation and Forestry

H.R. 827 (Vargas): Imperial Valley Desert Conservation and recreation Act

Summary: The bill would transfer BLM land to Anza-Borrego Desert State Park to be managed as state wilderness. Additionally, this bill would establish the Vinagre Wash Special Management Area in eastern Imperial County, to expand recreational opportunities and to protect and enhance wildlife habitat, cultural, and ecological resources.

Status: 2/16/17 Referred to the Subcommittee on Federal Lands

H.R. 857 (Cook): California Off-Road Recreation and Conservation Act

Summary: This bill would expand certain off-highway vehicle recreation areas and designate as wilderness specified public lands in California administered by the Bureau of Land Management. The bill's key off-highway vehicle provisions: Designate six National Off-Highway Vehicle Recreation Areas including Spangler Hills, El Mirage, Stoddard Valley, Rasor, Dumont Dunes, and Johnson Valley. Three of these areas would be

expanded to include El Mirage (680 acres), Spangler Hills (41,000 acres) and Johnson Valley (19,393 acres).

Status: 2/13/17 Referred to the Subcommittee on Federal Lands

Commission Action

For information only

Attachments

SB 1
SB 65
SB 249
AB 382
AB 533
AB 1077
S. 32
H.R. 289
H.R. 350
H.R. 622
H.R. 827
H.R. 859

AMENDED IN SENATE APRIL 3, 2017

AMENDED IN SENATE MARCH 30, 2017

AMENDED IN SENATE JANUARY 26, 2017

SENATE BILL

No. 1

Introduced by Senator Beall

(Principal coauthor: Assembly Member Frazier)

**(Coauthors: Senators Atkins, Dodd, Hertzberg, Hill, McGuire,
Mendoza, Monning, Skinner, Wieckowski, and Wiener)**

(Coauthors: Assembly Members Low, Mullin, and Santiago)

December 5, 2016

An act to amend Section 14526.5 of, to add Sections 14033, 14110, 14526.7, 14556.41, and 16321 to, to add Chapter 5 (commencing with Section 14460) to Part 5 of Division 3 of Title 2 of, to repeal Sections 63048.66, 63048.67, 63048.7, 63048.75, 63048.8, and 63048.85 of, and to repeal and add Section 63048.65 of, the Government Code, to add Section 43021 to the Health and Safety Code, to amend Section 99312.1 of, and to add Sections 99312.3, 99312.4, and 99314.9 to, the Public Utilities Code, to amend Sections 6051.8, 6201.8, 7360, 8352.4, 8352.5, 8352.6, and 60050 of, to add Sections 7361.2, 7653.2, 60050.2, and 60201.4 to, and to add Chapter 6 (commencing with Section 11050) to Part 5 of Division 2 of, the Revenue and Taxation Code, to amend Sections 2104, 2105, 2106, and 2107 of, to add Sections 2103.1 and 2192.4 to, to add Article 2.5 (commencing with Section 800) to Chapter 4 of Division 1 of, and to add Chapter 2 (commencing with Section 2030) and Chapter 8.5 (commencing with Section 2390) to Division 3 of, the Streets and Highways Code, and to amend Section 4156 of, and to add Sections 4000.15 and 9250.6 to, the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as amended, Beall. Transportation funding.

(1) Existing law provides various sources of funding for transportation purposes, including funding for the state highway system and the local street and road system. These funding sources include, among others, fuel excise taxes, commercial vehicle weight fees, local transactions and use taxes, and federal funds. Existing law imposes certain registration fees on vehicles, with revenues from these fees deposited in the Motor Vehicle Account and used to fund the Department of Motor Vehicles and the Department of the California Highway Patrol. Existing law provides for the monthly transfer of excess balances in the Motor Vehicle Account to the State Highway Account.

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.12 per gallon increase in the motor vehicle fuel (gasoline) tax imposed by the bill with an inflation adjustment, as provided, 50% of a \$0.20 per gallon increase in the diesel excise tax, with an inflation adjustment, as provided, a portion of a new transportation improvement fee imposed under the Vehicle License Fee Law with a varying fee between \$25 and \$175 based on vehicle value and with an inflation adjustment, as provided, and a new \$100 annual vehicle registration fee applicable only to zero-emission vehicles model year 2020 and later, with an inflation adjustment, as provided. The bill would provide that the fuel excise tax increases take effect on November 1, 2017, the transportation improvement fee takes effect on January 1, 2018, and the zero-emission vehicle registration fee takes effect on July 1, 2020.

This bill would annually set aside \$200,000,000 of the funds available for the program to fund road maintenance and rehabilitation purposes in counties that have sought and received voter approval of taxes or that have imposed fees, including uniform developer fees, as defined, which taxes or fees are dedicated solely to transportation improvements. These funds would be continuously appropriated for allocation pursuant

to guidelines to be developed by the California Transportation Commission in consultation with local agencies. The bill would require \$100,000,000 of the funds available for the program to be available annually for expenditure, upon appropriation by the Legislature, on the Active Transportation Program. The bill would require \$400,000,000 of the funds available for the program to be available annually for expenditure, upon appropriation by the Legislature, on state highway bridge and culvert maintenance and rehabilitation. The bill would require \$5,000,000 of the funds available for the program that are not restricted by Article XIX of the California Constitution to be appropriated each fiscal year to the California Workforce Development to assist local agencies to implement policies to promote preapprenticeship training programs to carry out specified projects funded by the account. The bill would require \$25,000,000 of the funds available for the program to be annually transferred to the State Highway Account for expenditure on the freeway service patrol program. The bill would require \$25,000,000 of the funds available for the program to be available annually for expenditure, upon appropriation by the Legislature, on local planning grants. The bill would authorize annual appropriations of \$5,000,000 and \$2,000,000 of the funds available for the program to the University of California and the California State University, respectively, for the purpose of conducting transportation research and transportation-related workforce education, training, and development, as specified. The bill would require the remaining funds available for the program to be allocated 50% for maintenance of the state highway system or to the state highway operation and protection program and 50% to cities and counties pursuant to a specified formula. The bill would impose various requirements on the department and agencies receiving these funds. The bill would authorize a city or county to spend its apportionment of funds under the program on transportation priorities other than those allowable pursuant to the program if the city's or county's average Pavement Condition Index meets or exceeds 80.

(2) Existing law creates the Department of Transportation within the Transportation Agency.

This bill would create the Independent Office of Audits and Investigations within the department, with specified powers and duties. The bill would provide for the Governor to appoint the director of the office for a 6-year term, subject to confirmation by the Senate, and would provide that the director, who would be known as the inspector general, may not be removed from office during the term except for

good cause. The bill would specify the duties and responsibilities of the Transportation Inspector General with respect to the department and local agencies receiving state and federal transportation funds through the department, and would require an annual report to the Legislature and Governor.

This bill would require the department to update the Highway Design Manual to incorporate the “complete streets” design concept by January 1, 2018. The bill would require the department to develop a plan by January 1, 2020, to increase by up to 100% the dollar value of contracts awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises, as specified.

(3) Existing law provides for loans of revenues from various transportation funds and accounts to the General Fund, with various repayment dates specified.

This bill would identify the amount of outstanding loans from certain transportation funds as \$706,000,000. The bill would require the Department of Finance to prepare a loan repayment schedule and would require the outstanding loans to be repaid pursuant to that schedule, as prescribed. The bill would appropriate funds for that purpose from the Budget Stabilization Account. The bill would require the repaid funds to be transferred, pursuant to a specified formula, to various state and local transportation purposes.

(4) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) created the Trade Corridors Improvement Fund and provided for allocation by the California Transportation Commission of \$2 billion in bond funds for infrastructure improvements on highway and rail corridors that have a high volume of freight movement and for specified categories of projects eligible to receive these funds.

This bill would deposit the revenues attributable to 50% of the \$0.20 per gallon increase in the diesel fuel excise tax imposed by the bill into the Trade Corridors Enhancement Fund, to be expended on corridor-based freight projects nominated by local agencies and the state.

(5) Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including

aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes, except that a specified portion of these gasoline excise tax revenues is deposited in the General Fund. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, commencing November 1, 2017, would transfer the gasoline excise tax revenues attributable to boats and off-highway vehicles from the new \$0.12 per gallon increase, and future inflation adjustments from that increase, to the State Parks and Recreation Fund, to be used for state parks, off-highway vehicle programs, and boating programs. The bill would allocate revenues from future inflation adjustments of the existing gasoline excise tax rate attributable to the nonhighway modes pursuant to existing law.

(6) Existing law, as of July 1, 2011, increases the sales and use tax on diesel and decreases the excise tax, as provided. Existing law requires the State Board of Equalization to annually modify both the gasoline and diesel excise tax rates on a going-forward basis so that the various changes in the taxes imposed on gasoline and diesel are revenue neutral.

This bill would eliminate, effective July 1, 2019, the annual rate adjustment to maintain revenue neutrality for the gasoline and diesel excise tax rates and would reimpose on that date the higher gasoline excise tax rate that was in effect on July 1, 2010, in addition to the increase in the rate described in (1) above that becomes effective on November 1, 2017.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these and other revenues in the account to the Controller for allocation by formula to transportation agencies for public transit purposes under the State Transit Assistance Program. Existing law provides for appropriation of other revenues in the account to the Department of Transportation for various other transportation purposes, including intercity rail purposes.

This bill would increase the additional sales and use tax rate on diesel fuel by an additional 4%. The bill would restrict expenditures of revenues attributable to the 3.5% rate increase to transit capital purposes and certain transit services and would require a recipient transit agency

to comply with certain requirements, including submitting a list of proposed projects to the Department of Transportation, as a condition of receiving a portion of these funds under the State Transit Assistance Program. The bill would require an existing required audit of transit operator finances to verify that these new revenues have been expended in conformance with these specific restrictions and all other generally applicable requirements. By increasing the amount of revenues in the Public Transportation Account that are continuously appropriated, the bill would thereby make an appropriation. The bill would require the revenues attributable to the remaining 0.5% rate increase to be continuously appropriated to the Transportation Agency for intercity rail and commuter rail purposes. The bill would also allocate a portion of the new transportation improvement fee to the State Transit Assistance Program.

(7) Existing law provides for the state to receive certain compact assets, as defined, from designated tribal compacts relative to Indian gaming, and authorized the compact assets to be sold by the Infrastructure and Economic Development Bank to a special purpose trust in order to generate state revenues. Existing law designated certain of these revenues to be used to repay certain loans of transportation funds that were made to the General Fund.

This bill would delete the references to the special purpose trust and revise payments to various transportation accounts to be made from compact assets. The bill would repeal various other related provisions.

(8) Existing law creates the Traffic Congestion Relief Program and identifies various specific projects eligible to receive funding.

This bill would deem the Traffic Congestion Relief Program to be complete and final as of June 30, 2017, and would provide that projects without approved applications are no longer eligible for funding.

(9) Existing law requires the Department of Transportation to prepare a state highway operation and protection program every other year for the expenditure of transportation capital improvement funds for projects that are necessary to preserve and protect the state highway system, excluding projects that add new traffic lanes. The program is required to be based on an asset management plan, as specified. Existing law requires the department to specify, for each project in the program the capital and support budget and projected delivery date for various components of the project. Existing law provides for the California Transportation Commission to review and adopt the program, and authorizes the commission to decline and adopt the program if it

determines that the program is not sufficiently consistent with the asset management plan.

This bill would require the commission, as part of its review of the program, to hold at least one hearing in northern California and one hearing in southern California regarding the proposed program. The bill would require the department to submit any change to a programmed project as an amendment to the commission for its approval.

This bill, on and after July 1, 2017, would also require the commission to make an allocation of all capital and support costs for each project in the program, and would require the department to submit a supplemental project allocation request to the commission for each project that experiences cost increases above the amounts in its allocation. The bill would require the commission to establish guidelines to provide exceptions to the requirement for a supplemental project allocation requirement that the commission determines are necessary to ensure that projects are not unnecessarily delayed.

(10) Existing law generally provides for transportation capital improvement projects to be nominated and programmed through the state highway operation and protection program, relative to state highway rehabilitation and similar projects, or through the state transportation improvement program, relative to capacity enhancements and other capital projects.

This bill would create the Solutions for Congested Corridors Program, with funding appropriated for the program from a portion of the new transportation improvement fee to be allocated by the California Transportation Commission to projects designed to achieve a balanced set of transportation, environmental, and community access improvements within highly congested travel corridors throughout the state and that are part of a comprehensive corridor plan. The bill would provide for regional transportation agencies and the Department of Transportation to nominate projects, with preference to be given to projects that demonstrate collaboration between the regional agencies and the department.

(11) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a

significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would establish the Advance Mitigation Program in the Department of Transportation to enhance communications between the department and stakeholders to, among other things, protect natural resources and accelerate project delivery. The bill would require the department to set aside not less than \$30,000,000 annually for 4 years for the program from capital outlay revenues.

(12) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution.

This bill would prohibit, except as specified, the requiring of the retirement, replacement, retrofit, or repower of a self-propelled commercial motor ~~vehicle, directly or indirectly,~~ vehicle during a specified period. *The bill would require the state board to, by January 1, 2025, evaluate the impact of these provisions on state and local clean air efforts to meet state and local clean air goals, as provided.*

(13) Existing law prohibits a person from driving, moving, or leaving standing upon a highway any motor vehicle, as defined, that has been registered in violation of provisions regulating vehicle emissions.

This bill, effective January 1, 2020, would require the Department of Motor Vehicles to confirm, prior to the initial registration or the transfer of ownership and registration of a diesel-fueled vehicle with a gross vehicle weight rating of more than 14,000 pounds, that the vehicle is compliant with, or exempt from, applicable air pollution control technology requirements, pursuant to specified provisions. The bill would require the department to refuse registration, or renewal or transfer of registration, for certain diesel-fueled vehicles, based on weight and model year, that are subject to specified provisions relating to the reduction of emissions of diesel particulate matter, oxides of nitrogen, and other criteria pollutants from in-use diesel-fueled vehicles. The bill would authorize the department to allow registration, or renewal or transfer of registration, for any diesel-fueled vehicle that has been reported to the State Air Resources Board, and is using an approved exemption, or is compliant with applicable air pollution control technology requirements, pursuant to specified provisions.

Existing law authorizes the department, in its discretion, to issue a temporary permit to operate a vehicle when a payment of fees has been accepted in an amount to be determined by the department and paid to the department by the owner or other person in lawful possession of the vehicle.

This bill would additionally authorize the department to issue a temporary permit to operate a vehicle for which registration is otherwise required to be refused under the provisions of the bill, as prescribed.

(14) The bill would enact other related provisions.

(15) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Over the next 10 years, the state faces a \$59 billion shortfall
4 to adequately maintain the existing state highway system in order
5 to keep it in a basic state of good repair.

6 (b) Similarly, cities and counties face a \$78 billion shortfall
7 over the next decade to adequately maintain the existing network
8 of local streets and roads.

9 (c) Statewide taxes and fees dedicated to the maintenance of
10 the system have not been increased in more than 20 years, with
11 those revenues losing more than 55 percent of their purchasing
12 power, while costs to maintain the system have steadily increased
13 and much of the underlying infrastructure has aged past its expected
14 useful life.

15 (d) California motorists are spending \$17 billion annually in
16 extra maintenance and car repair bills, which is more than \$700
17 per driver, due to the state's poorly maintained roads.

18 (e) Failing to act now to address this growing problem means
19 that more drastic measures will be required to maintain our system
20 in the future, essentially passing the burden on to future generations
21 instead of doing our job today.

22 (f) A funding program will help address a portion of the
23 maintenance backlog on the state's road system and will stop the
24 growth of the problem.

1 (g) Modestly increasing various fees can spread the cost of road
2 repairs broadly to all users and beneficiaries of the road network
3 without overburdening any one group.

4 (h) Improving the condition of the state's road system will have
5 a positive impact on the economy as it lowers the transportation
6 costs of doing business, reduces congestion impacts for employees,
7 and protects property values in the state.

8 (i) The federal government estimates that increased spending
9 on infrastructure creates more than 13,000 jobs per \$1 billion spent.

10 (j) Well-maintained roads benefit all users, not just drivers, as
11 roads are used for all modes of transport, whether motor vehicles,
12 transit, bicycles, or pedestrians.

13 (k) Well-maintained roads additionally provide significant health
14 benefits and prevent injuries and death due to crashes caused by
15 poorly maintained infrastructure.

16 (l) A comprehensive, reasonable transportation funding package
17 will do all of the following:

18 (1) Ensure these transportation needs are addressed.

19 (2) Fairly distribute the economic impact of increased funding.

20 (3) Restore the gas tax rate previously reduced by the State
21 Board of Equalization pursuant to the gas tax swap.

22 (4) Direct increased revenue to the state's highest transportation
23 needs.

24 (m) This act presents a balance of new revenues and reasonable
25 reforms to ensure efficiency, accountability, and performance from
26 each dollar invested to improve California's transportation system.
27 The revenues designated in this act are intended to address both
28 state and local transportation infrastructure needs as follows:

29 (1) The revenues estimated to be available for allocation under
30 the act to local agencies are estimated over the next 10 years to be
31 as follows:

32 (A) Fifteen billion dollars (\$15,000,000,000) to local street and
33 road maintenance.

34 (B) Seven billion five hundred million dollars (\$7,500,000,000)
35 for transit operations and capital.

36 (C) Two billion dollars (\$2,000,000,000) for the local
37 partnership program.

38 (D) One billion dollars (\$1,000,000,000) for the Active
39 Transportation Program.

1 (E) Eight hundred twenty-five million dollars (\$825,000,000)
2 for the regional share of the State Transportation Improvement
3 Program.

4 (F) Two hundred fifty million dollars (\$250,000,000) for local
5 planning grants.

6 (2) The revenues estimated to be available for allocation under
7 the act to the state are estimated over the next 10 years to be as
8 follows:

9 (A) Fifteen billion dollars (\$15,000,000,000) for state highway
10 maintenance and rehabilitation.

11 (B) Four billion dollars (\$4,000,000,000) for highway bridge
12 and culvert maintenance and rehabilitation.

13 (C) Three billion dollars (\$3,000,000,000) for high priority
14 freight corridors.

15 (D) Two billion five hundred million dollars (\$2,500,000,000)
16 for congested corridor relief.

17 (E) Eight hundred million dollars (\$800,000,000) for parks
18 programs, off-highway vehicle programs, boating programs, and
19 agricultural programs.

20 (F) Two hundred seventy-five million dollars (\$275,000,000)
21 for the interregional share of the State Transportation Improvement
22 Program.

23 (G) Two hundred fifty million dollars (\$250,000,000) for
24 freeway service patrols.

25 (H) Seventy million dollars (\$70,000,000) for transportation
26 research at the University of California and the California State
27 University.

28 (n) It is the intent of the Legislature that the Department of
29 Transportation meet the following preliminary performance
30 outcomes for additional state highway investments by the end of
31 2027, in accordance with applicable state and federal standards:

32 (1) Not less than 98 percent of pavement on the state highway
33 system in good or fair condition.

34 (2) Not less than 90 percent level of service achieved for
35 maintenance of potholes, spalls, and cracks.

36 (3) Not less than 90 percent of culverts in good or fair condition.

37 (4) Not less than 90 percent of the transportation management
38 system units in good condition.

39 (5) Fix not less than an additional 500 bridges.

(o) Further, it is the intent of the Legislature that the Department of Transportation leverage funding provided by this act for trade corridors and other highly congested travel corridors in order to obtain matching funds from federal and other sources to maximize improvements in the state's high-priority freight corridors and in the most congested commute corridors.

(p) Constitutionally protecting the funds raised by this act ensures that these funds are to be used only for transportation purposes necessary to repair roads and bridges, expand the economy, and protect natural resources.

(q) This act advances greenhouse gas reduction objectives and other environmental goals by focusing on "fix-it-first" projects, investments in transit and active transportation, and supporting Senate Bill 375 (Chapter 728, Statutes of 2008) and transportation plans.

SEC. 2. This act shall be known, and may be cited as, the Road Repair and Accountability Act of 2017.

SEC. 3. Section 14033 is added to the Government Code, to read:

14033. On or before January 1, 2018, the department shall update the Highway Design Manual to incorporate the "complete streets" design concept.

SEC. 4. Section 14110 is added to the Government Code, to read:

14110. Consistent with federal and state laws and regulations, including, but not limited to, the department's goal setting methodology as approved by the Federal Highway Administration, the department shall develop a plan by January 1, 2020, to increase by up to 100 percent the dollar value of contracts and procurements awarded to small businesses, disadvantaged business enterprises, and disabled veteran business enterprises. The plan shall include the use of targeted media, including minority and women business enterprises, to outreach to these businesses and shall be provided to the Legislature pursuant to Section 9795.

SEC. 5. Chapter 5 (commencing with Section 14460) is added to Part 5 of Division 3 of Title 2 of the Government Code, to read:

1 CHAPTER 5. DEPARTMENT OF TRANSPORTATION INDEPENDENT
2 OFFICE OF AUDITS AND INVESTIGATIONS
3

4 14460. (a) There is hereby created in the department the
5 Independent Office of Audits and Investigations to ensure all of
6 the following:

7 (1) The department, and external entities that receive state and
8 federal transportation funds from the department, are spending
9 those funds efficiently, effectively, economically, and in
10 compliance with applicable state and federal requirements. Those
11 external entities include, but are not limited to, private for profit
12 and nonprofit organizations, local transportation agencies, and
13 other local agencies that receive transportation funds either through
14 a contract with the department or through an agreement or grant
15 administered by the department.

16 (2) The department's programs are functioning consistent with
17 applicable accounting standards and practices and are administered
18 effectively, efficiently, and economically.

19 (3) The department's management is accomplishing
20 departmental priorities, developing an annual audit plan,
21 administering an effective enterprise risk management program,
22 and is making efficient, effective, and financially responsible
23 transportation decisions.

24 (4) The Secretary of Transportation, the Legislature, the
25 California Transportation Commission, and the director and chief
26 deputy director of the department are fully informed concerning
27 fraud, improper activities, or other serious abuses or deficiencies
28 relating to the expenditure of transportation funds or administration
29 of department programs and operations.

30 (b) The Governor shall appoint the director of the Audits and
31 Investigations Office, who shall serve a six-year term, have the
32 title of Inspector General, and be subject to Senate confirmation.
33 The Inspector General may not be removed from office during
34 that term, except for good cause. The reasons for removal of the
35 Inspector General shall be stated in writing and shall include the
36 basis for removal. The writing shall be sent to the Secretary of the
37 Senate and the Chief Clerk of the Assembly at the time of the
38 removal and shall be deemed to be a public document.

39 (c) The Inspector General is vested with the full authority to
40 exercise all responsibility for maintaining a full scope, independent,

1 and objective audit and investigation program as prescribed by
2 Sections 1237, 13885, 13886.5, 13887.5, and 13888, including,
3 but not limited to, those activities described in Section 14461.

4 (d) Notwithstanding Section 13887, in order to achieve
5 independence and objectivity pursuant to this section, the
6 Independent Office of Audits and Investigation shall meet all of
7 the following requirements:

8 (1) The Inspector General shall report all audit and confidential
9 investigation findings and recommendations made under his or
10 her jurisdiction to the Secretary of Transportation and the director
11 and chief deputy director of the department on an ongoing and
12 current basis.

13 (2) The Inspector General shall report at least annually, or upon
14 request, to the Governor, the Legislature, and the California
15 Transportation Commission with a summary of his or her
16 investigation and audit findings and recommendations. The
17 summary shall be posted on the office's Internet Web site and shall
18 otherwise be made available to the public upon its release to the
19 Governor, commission, and Legislature. The summary shall
20 include, but need not be limited to, significant problems discovered
21 by the Inspector General and whether the Inspector General's
22 recommendations relative to audits and investigations have been
23 implemented by the affected units and programs of the department
24 or affected external entities. The report shall be submitted to the
25 Legislature in compliance with Section 9795.

26 14461. The Inspector General shall review policies, practices,
27 and procedures and conduct audits and investigations of activities
28 involving state transportation funds administered by the department
29 in consultation with all affected units and programs of the
30 department and external entities.

31 SEC. 6. Section 14526.5 of the Government Code is amended
32 to read:

33 14526.5. (a) Based on the asset management plan prepared
34 and approved pursuant to Section 14526.4, the department shall
35 prepare a state highway operation and protection program for the
36 expenditure of transportation funds for major capital improvements
37 that are necessary to preserve and protect the state highway system.
38 Projects included in the program shall be limited to improvements
39 relative to the maintenance, safety, operation, and rehabilitation

1 of state highways and bridges that do not add a new traffic lane to
2 the system.

3 (b) The program shall include projects that are expected to be
4 advertised prior to July 1 of the year following submission of the
5 program, but which have not yet been funded. The program shall
6 include those projects for which construction is to begin within
7 four fiscal years, starting July 1 of the year following the year the
8 program is submitted.

9 (c) (1) The department, at a minimum, shall specify, for each
10 project in the state highway operation and protection program, the
11 capital and support budget, as applicable, for each of the following
12 project phases:

13 (A) Project approval and environmental documents, support
14 only.

15 (B) Plans, specifications, and estimates, support only.

16 (C) Rights-of-way.

17 (D) Construction.

18 (2) The department shall specify, for each project in the state
19 highway operation and protection program, a projected delivery
20 date for each of the following components:

21 (A) Project approval and environmental document completion.

22 (B) Plans, specifications, and estimates completion.

23 (C) Right-of-way certification.

24 (D) Start of construction.

25 (d) The department shall submit its proposed program to the
26 commission not later than January 31 of each even-numbered year.
27 Prior to submitting its proposed program, the department shall
28 make a draft of its proposed program available to transportation
29 planning agencies for review and comment and shall include the
30 comments in its submittal to the commission. The department shall
31 provide the commission with detailed information for all
32 programmed projects on cost, scope, schedule, and performance
33 metrics as determined by the commission.

34 (e) The commission shall review the proposed program relative
35 to its overall adequacy, consistency with the asset management
36 plan prepared and approved pursuant to Section 14526.4 and
37 funding priorities established in Section 167 of the Streets and
38 Highways Code, the level of annual funding needed to implement
39 the program, and the impact of those expenditures on the state
40 transportation improvement program. The commission shall adopt

1 the program and submit it to the Legislature and the Governor not
2 later than April 1 of each even-numbered year. The commission
3 may decline to adopt the program if the commission determines
4 that the program is not sufficiently consistent with the asset
5 management plan prepared and approved pursuant to Section
6 14526.4.

7 (f) As part of the commission's review of the program required
8 pursuant to subdivision (a), the commission shall hold at least one
9 hearing in northern California and one hearing in southern
10 California regarding the proposed program.

11 (g) On or after July 1, 2017, to provide sufficient and transparent
12 oversight of the department's capital outlay support resources
13 composed of both state staff and contractors, the commission shall
14 be required to allocate the department's capital outlay support
15 resources by project phase, including preconstruction. Through
16 this action, the commission will provide public transparency for
17 the department's budget estimates, increasing assurance that the
18 annual budget forecast is reasonable. The commission shall develop
19 guidelines, in consultation with the department, to implement this
20 subdivision. Guidelines adopted by the commission to implement
21 this subdivision shall be exempt from the Administrative Procedure
22 Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

23 (h) Beginning July 1, 2017, for a project that experiences
24 increases in capital or support costs above the amounts in the
25 commission's allocation pursuant to subdivision (g), the
26 commission shall establish a threshold for requiring a supplemental
27 project allocation. The commission's guidelines adopted pursuant
28 to subdivision (g) shall also establish the threshold that the
29 commission determines is necessary to ensure efficiency and may
30 provide exceptions as necessary so that projects are not
31 unnecessarily delayed.

32 (i) The department, for each project requiring a supplemental
33 project allocation pursuant to subdivision (h), shall submit a request
34 to the commission for its approval.

35 (j) Expenditures for these projects shall not be subject to
36 Sections 188 and 188.8 of the Streets and Highways Code.

37 SEC. 7. Section 14526.7 is added to the Government Code, to
38 read:

39 14526.7. (a) The department shall incorporate the performance
40 targets in subdivision (n) of Section 1 of the act adding this section

1 into the asset management plan adopted by the commission and
2 targets adopted by the commission pursuant to Sections 14526.4
3 and 14526.5. The asset management plan shall also include targets
4 adopted by the commission in consultation with the department
5 for each asset class included in subdivision (n) of Section 1 of the
6 act adding this section to measure the degree to which progress
7 was made towards achieving the overall 2027 targets. Targets may
8 be modified by the commission as needed to conform to federal
9 regulation on performance measures and the completion of the
10 department's asset management plan. Nothing in this section
11 precludes the commission from adopting additional targets and
12 performance measures pursuant to paragraph (1) of subdivision
13 (c) of Section 14526.4.

14 (b) As specified by guidelines adopted by the commission, the
15 department shall report to the commission on its progress toward
16 meeting the targets and performance measures established for state
17 highways pursuant to subdivision (n) of Section 1 of the act adding
18 this section and paragraph (1) of subdivision (c) of Section 14526.4.

19 SEC. 8. Section 14556.41 is added to the Government Code,
20 to read:

21 14556.41. As of June 30, 2017, projects in Section 14556.40
22 for the Traffic Congestion Relief Program shall be deemed
23 complete and final, and funding levels shall be based on actual
24 amounts requested by the designated lead applicant pursuant to
25 Section 14556.12. Projects without approved applications in
26 accordance with Section 14556.12 shall no longer be eligible for
27 program funding. Traffic Congestion Relief Program savings shall
28 be transferred to other transportation accounts for the purposes
29 specified in Section 16321.

30 SEC. 9. Section 16321 is added to the Government Code, to
31 read:

32 16321. The amount of outstanding loans made pursuant to
33 Section 14556.8 is seven hundred six million dollars
34 (\$706,000,000). This amount shall be repaid from the General
35 Fund pursuant to subdivision (c) of Section 20 of Article XVI of
36 the California Constitution no later than June 30, 2020, and upon
37 repayment of this amount all loans authorized pursuant to Section
38 14556.8 and any associated interest shall be deemed repaid. The
39 loans shall be repaid proportionately and in equal installments over
40 three years. The Department of Finance shall prepare a loan

1 repayment schedule, pursuant to which the outstanding loans shall
2 be repaid by June 30, 2020, as follows:

3 (a) Two hundred fifty-six million dollars (\$256,000,000) for
4 transfer to the Public Transportation Account, to be allocated as
5 follows:

6 (1) Up to twenty million dollars (\$20,000,000) to local and
7 regional agencies for climate change adaptation planning.

8 (2) The remainder to the Transit and Intercity Rail Capital
9 Program as authorized in Part 2 (commencing with Section 75220)
10 of Division 44 of the Public Resources Code.

11 (b) Two hundred twenty-five million dollars (\$225,000,000)
12 for transfer to the State Highway Account, for the State Highway
13 Operation and Protection Program.

14 (c) Two hundred twenty-five million dollars (\$225,000,000) is
15 hereby continuously appropriated without regard to fiscal year to
16 the Controller for apportionment to cities and counties for local
17 streets and roads pursuant to the formula in paragraph (3) of
18 subdivision (a) of Section 2103 of the Streets and Highways Code.

19 SEC. 10. Section 63048.65 of the Government Code is
20 repealed.

21 SEC. 11. Section 63048.65 is added to the Government Code,
22 to read:

23 63048.65. (a) Prior to July 1, 2015, three hundred twenty-one
24 million dollars (\$321,000,000) of the one billion two hundred
25 million dollars (\$1,200,000,000) of loans from the Traffic
26 Congestion Relief Fund to the General Fund was repaid using
27 tribal gaming compact revenues. In 2016, an additional one
28 hundred seventy-three million dollars (\$173,000,000) was repaid
29 from the General Fund.

30 (b) The remaining seven hundred six million dollars
31 (\$706,000,000) of loans from the Traffic Congestion Relief Fund
32 to the General Fund shall be repaid pursuant to Section 14556.8.

33 SEC. 12. Section 63048.66 of the Government Code is
34 repealed.

35 SEC. 13. Section 63048.67 of the Government Code is
36 repealed.

37 SEC. 14. Section 63048.7 of the Government Code is repealed.

38 SEC. 15. Section 63048.75 of the Government Code is
39 repealed.

40 SEC. 16. Section 63048.8 of the Government Code is repealed.

1 SEC. 17. Section 63048.85 of the Government Code is
2 repealed.

3 SEC. 18. Section 43021 is added to the Health and Safety Code,
4 to read:

5 43021. (a) Except as provided in subdivision (b), the
6 retirement, replacement, retrofit, or repower of a self-propelled
7 commercial motor vehicle, as defined in Section 34601 of the
8 Vehicle Code, shall not be ~~required, directly or indirectly, required~~
9 until the later of the following:

10 (1) Thirteen years from the model year the engine and emission
11 control system are first certified for use in self-propelled
12 commercial motor vehicles by the state board or other applicable
13 state and federal agencies.

14 (2) When the vehicle reaches the earlier of either 800,000
15 vehicle miles traveled or 18 years from the model year the engine
16 and emission control system are first certified for use in
17 self-propelled commercial motor vehicles by the state board or
18 other applicable state and federal agencies.

19 (b) This section does not apply to any of the following:

20 (1) Safety programs, including, but not limited to, those adopted
21 pursuant to Section 34501 of the Vehicle Code.

22 (2) Voluntary incentive and grant programs, including, but not
23 limited to, those that give preferential access to a facility to a
24 particular vehicle or class of vehicles.

25 (3) Programs designed to address inspection of, tampering with,
26 and maintenance of, emission control systems.

27 (4) Programs designed to address imminent health risks where
28 evidence, unavailable at the time equipment is certified for use by
29 the state board or other applicable state and federal agencies, is
30 sufficient to show that immediate corrective action is necessary
31 to prevent injury, illness, or death.

32 (c) This section only applies to laws or regulations adopted or
33 amended after January 1, 2017.

34 (d) *It is the intent of the Legislature for this section to provide*
35 *owners of self-propelled commercial motor vehicles, as defined*
36 *in subdivision (a), certainty about the useful life of engines certified*
37 *by the state board and other applicable agencies to meet required*
38 *environmental standards for sale in the state. This section is not*
39 *meant to otherwise restrict the authority of the state board or*
40 *districts.*

1 (e) (1) *The state board shall, by January 1, 2025, evaluate the*
2 *impact of the provisions of this section on state and local clean*
3 *air efforts to meet state and local clean air goals. The evaluation*
4 *shall include a review of the following:*

5 (A) *Compliance with the truck and bus rule (Section 2025 of*
6 *Title 13 of the California Code of Regulations).*

7 (B) *The benefits and impacts of measures enacted to improve*
8 *local air quality impacts from stationary sources.*

9 (C) *State implementation plan compliance.*

10 (2) *As part of the study, the state board shall make*
11 *recommendations to the Legislature on additional or different*
12 *mechanisms for achieving those goals while recognizing the*
13 *financial investments made by the effected entities. In developing*
14 *the study, the state board shall take into account the report*
15 *required in Section 38531 of the Health and Safety Code.*

16 (3) *The state board shall hold at least one public workshop*
17 *prior to the completion of the study.*

18 SEC. 19. Section 99312.1 of the Public Utilities Code is
19 amended to read:

20 99312.1. (a) Revenues transferred to the Public Transportation
21 Account pursuant to Sections 6051.8 and 6201.8 of the Revenue
22 and Taxation Code for the State Transit Assistance Program are
23 hereby continuously appropriated to the Controller for allocation
24 as follows:

25 (1) Fifty percent for allocation to transportation planning
26 agencies, county transportation commissions, and the San Diego
27 Metropolitan Transit Development Board pursuant to Section
28 99314.

29 (2) Fifty percent for allocation to transportation agencies, county
30 transportation commissions, and the San Diego Metropolitan
31 Transit Development Board for purposes of Section 99313.

32 (b) For purposes of this chapter, the revenues allocated pursuant
33 to this section shall be subject to the same requirements as revenues
34 allocated pursuant to subdivisions (b) and (c), as applicable, of
35 Section 99312.

36 (c) The revenues transferred to the Public Transportation
37 Account for the State Transit Assistance Program that are
38 attributable to subdivision (a) of Section 11053 of the Revenue
39 and Taxation Code are hereby continuously appropriated to the

1 Controller, and, upon allocation pursuant to Sections 99313 and
2 99314, shall only be expended on the following:

3 (1) Transit capital projects or services to maintain or repair a
4 transit operator's existing transit vehicle fleet or existing transit
5 facilities, including rehabilitation or modernization of existing
6 vehicles or facilities.

7 (2) The design, acquisition, and construction of new vehicles
8 or facilities that improve existing transit services.

9 (3) Transit services that complement local efforts for repair and
10 improvement of local transportation infrastructure.

11 (d) (1) Prior to receiving an apportionment of funds pursuant
12 to subdivision (c) from the Controller in a fiscal year, a recipient
13 transit agency shall submit to the Department of Transportation a
14 list of projects proposed to be funded with these funds. The list of
15 projects proposed to be funded with these funds shall include a
16 description and location of each proposed project, a proposed
17 schedule for the project's completion, and the estimated useful life
18 of the improvement. The project list shall not limit the flexibility
19 of a recipient transit agency to fund projects in accordance with
20 local needs and priorities so long as the projects are consistent
21 with subdivision (c).

22 (2) The department shall report to the Controller the recipient
23 transit agencies that have submitted a list of projects as described
24 in this subdivision and that are therefore eligible to receive an
25 apportionment of funds for the applicable fiscal year. The
26 Controller, upon receipt of the report, shall apportion funds
27 pursuant to Sections 99313 and 99314.

28 (e) For each fiscal year, each recipient transit agency receiving
29 an apportionment of funds pursuant to subdivision (c) shall, upon
30 expending those funds, submit documentation to the department
31 that includes a description and location of each completed project,
32 the amount of funds expended on the project, the completion date,
33 and the estimated useful life of the improvement.

34 (f) The audit of transit operator finances required pursuant to
35 Section 99245 shall verify that the revenues identified in
36 subdivision (c) have been expended in conformance with these
37 specific requirements and all other generally applicable
38 requirements.

39 SEC. 20. Section 99312.3 is added to the Public Utilities Code,
40 to read:

1 99312.3. Revenues transferred to the Public Transportation
2 Account pursuant to paragraph (2) of subdivision (c) of Section
3 6051.8 and paragraph (2) of subdivision (c) of Section 6201.8 of
4 the Revenue and Taxation Code are hereby continuously
5 appropriated to the Transportation Agency for distribution in the
6 following manner:

7 (a) (1) Fifty percent of available annual revenues under this
8 section shall be allocated by the Transportation Agency to the
9 public agencies, including joint powers agencies, responsible for
10 state-supported intercity rail services. A minimum of 25 percent
11 of the funds available under this subdivision shall be allocated to
12 each of the state's three intercity rail corridors that provide
13 regularly scheduled intercity rail service.

14 (2) The Transportation Agency shall adopt guidelines governing
15 the administration of the funds available under this subdivision,
16 including provisions providing authority for loans of these funds
17 by mutual agreement between intercity rail service corridors.

18 (b) (1) Fifty percent of available annual revenues under this
19 section shall be allocated by the Transportation Agency to the
20 public agencies, including joint powers agencies, responsible for
21 commuter rail services. For the 2018–19 and 2019–20 fiscal years,
22 20 percent of the funds available under this subdivision shall be
23 allocated to each of the state's five commuter rail service providers
24 that provide regularly scheduled commuter rail service.
25 Commencing July 1, 2020, the funds available under this
26 subdivision shall be allocated based on guidelines and a distribution
27 formula adopted by the Transportation Agency.

28 (2) On or before July 1, 2019, the Transportation Agency shall
29 prepare a draft of the proposed guidelines and distribution formula
30 and make them available for public comment. In preparing the
31 proposed guidelines and distribution formula, the agency shall
32 consult with the state's five commuter rail service providers. The
33 final guidelines and distribution formula shall be adopted on or
34 before January 1, 2020. The guidelines shall include, but need not
35 be limited to, provisions providing authority for loans of these
36 funds by mutual agreement between commuter rail service
37 providers and providing for baseline allocations to each provider.

38 (c) The funds made available by this section may be used for
39 operations and capital improvements.

1 SEC. 21. Section 99312.4 is added to the Public Utilities Code,
2 to read:

3 99312.4. Revenues transferred to the Public Transportation
4 Account pursuant to subdivision (a) of Section 11053 of the
5 Revenue and Taxation Code for the Transit and Intercity Rail
6 Capital Program (Part 2 (commencing with Section 75220) of
7 Division 44 of the Public Resources Code) shall be available for
8 appropriation to that program pursuant to the annual Budget Act.

9 SEC. 22. Section 99314.9 is added to the Public Utilities Code,
10 to read:

11 99314.9. The Controller shall compute quarterly proposed
12 allocations for State Transit Assistance Program funds available
13 for allocation pursuant to Sections 99313 and 99314. The
14 Controller shall publish the allocations for each eligible recipient
15 agency, including one list applicable to revenues allocated pursuant
16 to subdivision (c) of Section 99312.1 and another list for revenues
17 allocated from all other revenues in the Public Transportation
18 Account that are designated for the State Transit Assistance
19 Program.

20 SEC. 23. Section 6051.8 of the Revenue and Taxation Code
21 is amended to read:

22 6051.8. (a) Except as provided by Section 6357.3, in addition
23 to the taxes imposed by this part, for the privilege of selling
24 tangible personal property at retail a tax is hereby imposed upon
25 all retailers at the rate of 1.75 percent of the gross receipts of any
26 retailer from the sale of all diesel fuel, as defined in Section 60022.

27 (b) Except as provided by Section 6357.3, in addition to the
28 taxes imposed by this part and by subdivision (a), commencing
29 November 1, 2017, for the privilege of selling tangible personal
30 property at retail a tax is hereby imposed upon all retailers at the
31 rate of 4 percent of the gross receipts of any retailer from the sale
32 of all diesel fuel, as defined in Section 60022, sold at retail in this
33 state.

34 (c) (1) Notwithstanding subdivision (b) of Section 7102, except
35 as otherwise provided in paragraph (2), all of the revenues, less
36 refunds, collected pursuant to this section shall be estimated by
37 the State Board of Equalization, with the concurrence of the
38 Department of Finance, and transferred quarterly to the Public
39 Transportation Account in the State Transportation Fund for

1 allocation under the State Transit Assistance Program pursuant to
2 Section 99312.1 of the Public Utilities Code.

3 (2) The revenues, less refunds, attributable to a rate of 0.5
4 percent of the 4-percent increase in the rate pursuant to subdivision
5 (b), amounting to one-eighth of revenues from the increase in the
6 rate under that subdivision, shall be estimated by the State Board
7 of Equalization, with the concurrence of the Department of Finance,
8 and transferred quarterly to the Public Transportation Account in
9 the State Transportation Fund for allocation by the Transportation
10 Agency to intercity rail and commuter rail purposes pursuant to
11 Section 99312.3 of the Public Utilities Code.

12 SEC. 24. Section 6201.8 of the Revenue and Taxation Code
13 is amended to read:

14 6201.8. (a) Except as provided by Section 6357.3, in addition
15 to the taxes imposed by this part, an excise tax is hereby imposed
16 on the storage, use, or other consumption in this state of diesel
17 fuel, as defined in Section 60022, at the rate of 1.75 percent of the
18 sales price of the diesel fuel.

19 (b) Except as provided by Section 6357.3, in addition to the
20 taxes imposed by this part and by subdivision (a), commencing
21 November 1, 2017, an excise tax is hereby imposed on the storage,
22 use, or other consumption in this state of diesel fuel, as defined in
23 Section 60022, at the rate of 4 percent of the sales price of the
24 diesel fuel.

25 (c) (1) Notwithstanding subdivision (b) of Section 7102, except
26 as otherwise provided in paragraph (2), all of the revenues, less
27 refunds, collected pursuant to this section shall be estimated by
28 the State Board of Equalization, with the concurrence of the
29 Department of Finance, and transferred quarterly to the Public
30 Transportation Account in the State Transportation Fund for
31 allocation pursuant to Section 99312.1 of the Public Utilities Code.

32 (2) The revenues, less refunds, attributable to a rate of 0.5
33 percent of the 4-percent increase in the rate pursuant to subdivision
34 (b), amounting to one-eighth of revenues from the increase in the
35 rate under that subdivision, shall be estimated by the State Board
36 of Equalization, with the concurrence of the Department of Finance,
37 and transferred quarterly to the Public Transportation Account in
38 the State Transportation Fund for allocation by the Transportation
39 Agency to intercity rail and commuter rail purposes pursuant to
40 Section 99312.3 of the Public Utilities Code.

1 SEC. 25. Section 7360 of the Revenue and Taxation Code is
2 amended to read:

3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
5 and 7364.

6 (2) If the federal fuel tax is reduced below the rate of nine cents
7 (\$0.09) per gallon and federal financial allocations to this state for
8 highway and exclusive public mass transit guideway purposes are
9 reduced or eliminated correspondingly, the tax rate imposed by
10 paragraph (1), on and after the date of the reduction, shall be
11 recalculated by an amount so that the combined state rate under
12 paragraph (1) and the federal tax rate per gallon equal twenty-seven
13 cents (\$0.27).

14 (3) If any person or entity is exempt or partially exempt from
15 the federal fuel tax at the time of a reduction, the person or entity
16 shall continue to be so exempt under this section.

17 (b) (1) On and after July 1, 2010, in addition to the tax imposed
18 by subdivision (a), a tax is hereby imposed upon each gallon of
19 motor vehicle fuel, other than aviation gasoline, subject to the tax
20 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
21 and three-tenths cents (\$0.173) per gallon.

22 (2) For the 2011–12 fiscal year and each fiscal year thereafter,
23 the board shall, on or before March 1 of the fiscal year immediately
24 preceding the applicable fiscal year, adjust the rate in paragraph
25 (1) in that manner as to generate an amount of revenue that will
26 equal the amount of revenue loss attributable to the exemption
27 provided by Section 6357.7, based on estimates made by the board,
28 and that rate shall be effective during the state's next fiscal year.

29 (3) In order to maintain revenue neutrality for each year,
30 beginning with the rate adjustment on or before March 1, 2012,
31 the adjustment under paragraph (2) shall also take into account the
32 extent to which the actual amount of revenues derived pursuant to
33 this subdivision and, as applicable, Section 7361.1, the revenue
34 loss attributable to the exemption provided by Section 6357.7
35 resulted in a net revenue gain or loss for the fiscal year ending
36 prior to the rate adjustment date on or before March 1.

37 (4) The intent of paragraphs (2) and (3) is to ensure that the act
38 adding this subdivision and Section 6357.7 does not produce a net
39 revenue gain in state taxes.

(5) Commencing July 1, 2019, the adjustments in paragraphs (2) and (3) shall cease, and the rate imposed by this subdivision shall be the rate in paragraph (1).

(c) On and after November 1, 2017, in addition to the taxes imposed by subdivisions (a) and (b), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364, in an amount equal to twelve cents (\$0.12) per gallon.

(d) On July 1, 2020, and every July 1 thereafter, the board shall adjust the taxes imposed by subdivisions (a), (b), and (c), with the adjustment to apply to both to the base tax rates specified in those provisions and to any previous adjustment in rates made pursuant to this subdivision, by increasing the taxes by a percentage amount equal to the increase in the California Consumer Price Index, as calculated by the Department of Finance with the resulting taxes rounded to the nearest one-tenth of one cent (\$0.01). The first adjustment pursuant to this subdivision shall be a percentage amount equal to the increase in the California Consumer Price Index from November 1, 2017, to November 1, 2019. Subsequent annual adjustments shall cover subsequent 12 month periods. The incremental change shall be added to the associated rate for that year.

(e) Any increases to the taxes imposed under subdivisions (a), (b), and (c) that are enacted by legislation subsequent to July 1, 2017, shall be deemed to be changes to the base tax rates for purposes of the California Consumer Price Index calculation and adjustment performed pursuant to subdivision (d).

SEC. 26. Section 7361.2 is added to the Revenue and Taxation Code, to read:

7361.2. (a) For the privilege of storing, for the purpose of sale, each supplier, wholesaler, and retailer owning 1,000 or more gallons of tax-paid motor vehicle fuel on November 1, 2017, shall pay a storage tax, the rate of which shall be determined by the board pursuant to the difference in the rate of the tax on motor vehicle fuel in effect on October 31, 2017, and the rate in effect on November 1, 2017, on tax-paid motor vehicle fuel in storage according to the volumetric measure thereof.

(b) For purposes of this section:

(1) "Owning" means having title to the motor vehicle fuel.

1 (2) “Retailer” means any person who sells motor vehicle fuel
2 in this state to a person who subsequently uses the motor vehicle
3 fuel.

4 (3) “Storing” includes the ownership or possession of tax-paid
5 motor vehicle fuel outside of the bulk transfer/terminal system,
6 including the holding of tax-paid motor vehicle fuel for sale at
7 wholesale or retail locations stored in a container of any kind,
8 including railroad tank cars and trucks or trailer cargo tanks.
9 “Storing” also includes tax-paid motor vehicle fuel purchased from
10 and invoiced by the seller, and tax-paid motor vehicle fuel removed
11 from a terminal or entered into by a supplier, prior to the date
12 specified in subdivision (a) and in transit on that date.

13 (4) “Wholesaler” means any person who sells diesel fuel in this
14 state for resale to a retailer or to a person who is not a retailer and
15 subsequently uses the motor vehicle fuel.

16 SEC. 27. Section 7653.2 is added to the Revenue and Taxation
17 Code, to read:

18 7653.2. On or before January 1, 2018, each person subject to
19 the storage tax imposed under Section 7361.2 shall prepare and
20 file with the board, in a form prescribed by the board, a return
21 showing the total number of gallons of tax-paid motor vehicle fuel
22 owned by the person on November 1, 2017, the amount of the
23 storage tax, and any other information that the board deems
24 necessary for the proper administration of this part. The return
25 shall be accompanied by a remittance payable to the board in the
26 amount of tax due.

27 SEC. 28. Section 8352.4 of the Revenue and Taxation Code
28 is amended to read:

29 8352.4. (a) Subject to Sections 8352 and 8352.1, and except
30 as otherwise provided in subdivision (b), there shall be transferred
31 from the money deposited to the credit of the Motor Vehicle Fuel
32 Account to the Harbors and Watercraft Revolving Fund, for
33 expenditure in accordance with Division 1 (commencing with
34 Section 30) of the Harbors and Navigation Code, the sum of six
35 million six hundred thousand dollars (\$6,600,000) per annum,
36 representing the amount of money in the Motor Vehicle Fuel
37 Account attributable to taxes imposed on distributions of motor
38 vehicle fuel used or usable in propelling vessels. The actual amount
39 shall be calculated using the annual reports of registered boats
40 prepared by the Department of Motor Vehicles for the United

1 States Coast Guard and the formula and method of the December
2 1972 report prepared for this purpose and submitted to the
3 Legislature on December 26, 1972, by the Director of
4 Transportation. If the amount transferred during each fiscal year
5 is in excess of the calculated amount, the excess shall be
6 retransferred from the Harbors and Watercraft Revolving Fund to
7 the Motor Vehicle Fuel Account. If the amount transferred is less
8 than the amount calculated, the difference shall be transferred from
9 the Motor Vehicle Fuel Account to the Harbors and Watercraft
10 Revolving Fund. No adjustment shall be made if the computed
11 difference is less than fifty thousand dollars (\$50,000), and the
12 amount shall be adjusted to reflect any temporary or permanent
13 increase or decrease that may be made in the rate under the Motor
14 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
15 made prior to payments pursuant to Section 8352.2.

16 (b) (1) Commencing July 1, 2012, the revenues attributable to
17 the taxes imposed pursuant to subdivision (b) of Section 7360 and
18 otherwise to be deposited in the Harbors and Watercraft Revolving
19 Fund pursuant to subdivision (a) shall instead be transferred to the
20 General Fund.

21 (2) Commencing November 1, 2017, the revenues attributable
22 to the taxes imposed pursuant to subdivision (c) of Section 7360,
23 any adjustment pursuant to subdivision (d) of Section 7360, and
24 Section 7361.2, and otherwise to be deposited in the Harbors and
25 Watercraft Revolving Fund pursuant to subdivision (a), shall
26 instead be transferred to the State Parks and Recreation Fund to
27 be used for state parks, off-highway vehicle programs, or boating
28 programs.

29 SEC. 29. Section 8352.5 of the Revenue and Taxation Code
30 is amended to read:

31 8352.5. (a) (1) Subject to Sections 8352 and 8352.1, and
32 except as otherwise provided in paragraph (1) of subdivision (b),
33 there shall be transferred from the money deposited to the credit
34 of the Motor Vehicle Fuel Account to the Department of Food and
35 Agriculture Fund, during the second quarter of each fiscal year,
36 an amount equal to the estimate contained in the most recent report
37 prepared pursuant to this section.

38 (2) The amounts are not subject to Section 6357 with respect
39 to the collection of sales and use taxes thereon, and represent the
40 portion of receipts in the Motor Vehicle Fuel Account during a

1 calendar year that were attributable to agricultural off-highway
2 use of motor vehicle fuel which is subject to refund pursuant to
3 Section 8101, less gross refunds allowed by the Controller during
4 the fiscal year ending June 30 following the calendar year to
5 persons entitled to refunds for agricultural off-highway use
6 pursuant to Section 8101. Payments pursuant to this section shall
7 be made prior to payments pursuant to Section 8352.2.

8 (b) (1) Commencing July 1, 2012, the revenues attributable to
9 the taxes imposed pursuant to subdivision (b) of Section 7360 and
10 otherwise to be deposited in the Department of Food and
11 Agriculture Fund pursuant to subdivision (a) shall instead be
12 transferred to the General Fund.

13 (2) Commencing November 1, 2017, the revenues attributable
14 to the taxes imposed pursuant to subdivision (c) of Section 7360,
15 as adjusted pursuant to subdivision (d) of Section 7360, and Section
16 7361.2 shall be deposited in the Department of Food and
17 Agriculture Fund.

18 (c) On or before September 30, 2012, and on or before
19 September 30 of each even-numbered year thereafter, the Director
20 of Transportation and the Director of Food and Agriculture shall
21 jointly prepare, or cause to be prepared, a report setting forth the
22 current estimate of the amount of money in the Motor Vehicle
23 Fuel Account attributable to agricultural off-highway use of motor
24 vehicle fuel, which is subject to refund pursuant to Section 8101
25 less gross refunds allowed by the Controller to persons entitled to
26 refunds for agricultural off-highway use pursuant to Section 8101;
27 and they shall submit a copy of the report to the Legislature.

28 SEC. 30. Section 8352.6 of the Revenue and Taxation Code
29 is amended to read:

30 8352.6. (a) (1) Subject to Section 8352.1, and except as
31 otherwise provided in paragraphs (2) and (3), on the first day of
32 every month, there shall be transferred from moneys deposited to
33 the credit of the Motor Vehicle Fuel Account to the Off-Highway
34 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
35 an amount attributable to taxes imposed upon distributions of motor
36 vehicle fuel used in the operation of motor vehicles off highway
37 and for which a refund has not been claimed. Transfers made
38 pursuant to this section shall be made prior to transfers pursuant
39 to Section 8352.2.

1 (2) (A) Commencing July 1, 2012, the revenues attributable to
2 the taxes imposed pursuant to subdivision (b) of Section 7360 and
3 otherwise to be deposited in the Off-Highway Vehicle Trust Fund
4 pursuant to paragraph (1) shall instead be transferred to the General
5 Fund.

6 (B) Commencing November 1, 2017, the revenues attributable
7 to the taxes imposed pursuant to subdivision (c) of Section 7360,
8 any adjustment pursuant to subdivision (d) of Section 7360, and
9 Section 7361.2, and otherwise to be deposited in the Off-Highway
10 Vehicle Trust Fund pursuant to subdivision (a), shall instead be
11 transferred to the State Parks and Recreation Fund to be used for
12 state parks, off-highway vehicle programs, or boating programs.

13 (3) The Controller shall withhold eight hundred thirty-three
14 thousand dollars (\$833,000) from the monthly transfer to the
15 Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and
16 transfer that amount to the General Fund.

17 (b) The amount transferred to the Off-Highway Vehicle Trust
18 Fund pursuant to paragraph (1) of subdivision (a), as a percentage
19 of the Motor Vehicle Fuel Account, shall be equal to the percentage
20 transferred in the 2006–07 fiscal year. Every five years, starting
21 in the 2013–14 fiscal year, the percentage transferred may be
22 adjusted by the Department of Transportation in cooperation with
23 the Department of Parks and Recreation and the Department of
24 Motor Vehicles. Adjustments shall be based on, but not limited
25 to, the changes in the following factors since the 2006–07 fiscal
26 year or the last adjustment, whichever is more recent:

27 (1) The number of vehicles registered as off-highway motor
28 vehicles as required by Division 16.5 (commencing with Section
29 38000) of the Vehicle Code.

30 (2) The number of registered street-legal vehicles that are
31 anticipated to be used off highway, including four-wheel drive
32 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

33 (3) Attendance at the state vehicular recreation areas.

34 (4) Off-highway recreation use on federal lands as indicated by
35 the United States Forest Service's National Visitor Use Monitoring
36 and the United States Bureau of Land Management's Recreation
37 Management Information System.

38 (c) It is the intent of the Legislature that transfers from the Motor
39 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
40 should reflect the full range of motorized vehicle use off highway

for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006–07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

(e) In the 2014–15 fiscal year, the Department of Transportation, in consultation with the Department of Parks and Recreation and the Department of Motor Vehicles, shall undertake a study to determine the appropriate adjustment to the amount transferred pursuant to subdivision (b) and to update the estimate of the amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. The department shall provide a copy of this study to the Legislature no later than January 1, 2016.

SEC. 31. Chapter 6 (commencing with Section 11050) is added to Part 5 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 6. TRANSPORTATION IMPROVEMENT FEE

11050. For purposes of this chapter, the following terms have the following meanings:

(a) “Transportation purposes” means both of the following:

(1) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for

1 property taken or damaged for the foregoing purposes, and the
2 administrative costs necessarily incurred in the foregoing purposes.

3 (2) The research, planning, construction, improvement,
4 maintenance, and operation of public transportation systems (and
5 their related equipment and fixed facilities), including the
6 mitigation of their environmental effects, the payment for property
7 taken or damaged for the foregoing purposes, and the
8 administrative costs necessarily incurred in the foregoing purposes.

9 (b) “Transportation improvement fee” means a supplemental
10 charge added to the fee imposed pursuant to Chapter 2
11 (commencing with Section 10751).

12 (c) “Vehicle” means every vehicle that is subject to the fee in
13 Chapter 2 (commencing with Section 10751), except the following:

14 (1) A commercial vehicle with an unladen weight of more than
15 10,000 pounds.

16 (2) A vehicle exempted pursuant to the Vehicle Code from the
17 payment of registration fees.

18 (3) A vehicle for which a certificate of nonoperation has been
19 filed with the Department of Motor Vehicles pursuant to Section
20 4604 of the Vehicle Code, during the period of time covered by
21 the certificate.

22 (4) A vehicle described in Section 5004 of the Vehicle Code.

23 11051. (a) In addition to any other fee imposed on a vehicle
24 by this code or the Vehicle Code, a transportation improvement
25 fee is hereby imposed on each vehicle as defined in subdivision
26 (b) of Section 11050 effective on January 1, 2018, or as soon after
27 that date as the department is able to commence collection of the
28 fee. The transportation improvement fee shall be in the amounts
29 specified in Section 11052.

30 (b) The department shall collect the fee at the same time and in
31 the same manner as the department collects the vehicle registration
32 fee pursuant to Section 9250 of the Vehicle Code.

33 (c) The fee imposed pursuant to this chapter is imposed for the
34 privilege of a resident of California to operate upon the public
35 highways a vehicle or trailer coach, the registrant of which is
36 subject to the fee under Chapter 2 (commencing with Section
37 10751).

38 (d) The revenues from the transportation improvement fee
39 imposed by this chapter shall be available for expenditure only on
40 transportation purposes as provided in Section 11053.

1 11052. (a) The annual amount of the transportation
2 improvement fee shall be based on the market value of the vehicle,
3 as determined by the department pursuant to Sections 10753,
4 10753.2, and 10753.5, using the following schedule:

5 (1) Vehicles with a vehicle market value range between zero
6 dollars (\$0) and four thousand nine hundred ninety-nine dollars
7 (\$4,999), a fee of twenty-five dollars (\$25).

8 (2) Vehicles with a vehicle market value range between five
9 thousand dollars (\$5,000) and twenty-four thousand nine hundred
10 ninety-nine dollars (\$24,999), a fee of fifty dollars (\$50).

11 (3) Vehicles with a vehicle market value range between
12 twenty-five thousand dollars (\$25,000) and thirty-four thousand
13 nine hundred ninety-nine dollars (\$34,999), a fee of one hundred
14 dollars (\$100).

15 (4) Vehicles with a vehicle market value range between
16 thirty-five thousand dollars (\$35,000) and fifty-nine thousand nine
17 hundred ninety-nine dollars (\$59,999), a fee of one hundred fifty
18 dollars (\$150).

19 (5) Vehicles with a vehicle market value range of sixty thousand
20 dollars (\$60,000) and higher, a fee of one hundred seventy-five
21 dollars (\$175).

22 (b) On January 1, 2020, and every January 1 thereafter, the
23 department shall adjust the transportation improvement fee imposed
24 under subdivision (a) by increasing the fee for each vehicle market
25 range in an amount equal to the increase in the California
26 Consumer Price Index for the prior year, except the first adjustment
27 shall cover the prior two years, as calculated by the Department
28 of Finance, with amounts equal to or greater than fifty cents (\$0.50)
29 rounded to the highest whole dollar. The incremental change shall
30 be added to the associated fee rate for that year.

31 (c) Any changes to the transportation improvement fee imposed
32 in subdivision (a) that are enacted by the Legislature subsequent
33 to January 1, 2018, shall be deemed to be changes to the base fee
34 for purposes of the California Consumer Price Index calculation
35 and adjustment performed pursuant to subdivision (b).

36 11053. Revenues from the transportation improvement fee,
37 after deduction of the department's administrative costs related to
38 this chapter, shall be transferred by the department to the Controller
39 for deposit as follows:

(a) Commencing with the 2017–18 fiscal year, three hundred fifty million dollars (\$350,000,000), plus an annual increase for inflation as determined in subdivision (b) of Section 11052 for this proportional share, shall annually be deposited into the Public Transportation Account. The Controller shall, each month, set aside one-twelfth of this amount, to accumulate a total of three hundred fifty million dollars (\$350,000,000) in each fiscal year or the appropriate adjusted amount. For each fiscal year commencing with the 2017–18 fiscal year, the annual Budget Act shall include an appropriation for 70 percent of these revenues to be allocated to the Transit and Intercity Rail Capital Program (Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code), pursuant to Section 99312.4 of the Public Utilities Code. The remaining 30 percent of these revenues shall be continuously appropriated to the Controller for allocation under the State Transit Assistance program, pursuant to subdivision (c) of Section 99312.1 of the Public Utilities Code.

(b) Commencing with the 2017–18 fiscal year, two hundred fifty million dollars (\$250,000,000) shall annually be deposited into the State Highway Account for appropriation by the annual Budget Act to the Congested Corridor Program created pursuant to Section 2391 of the Streets and Highways Code. The Controller shall, each month, set aside one-twelfth of this amount, to accumulate a total of two hundred fifty million dollars (\$250,000,000) in each fiscal year.

(c) The remaining revenues after the transfers made in subdivisions (a) and (b) shall be deposited into the Road Maintenance and Rehabilitation Account created pursuant to Section 2031 of the Streets and Highway Code.

SEC. 32. Section 60050 of the Revenue and Taxation Code is amended to read:

60050. (a) (1) A tax of sixteen cents (\$0.16) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(2) If the federal fuel tax is reduced below the rate of fifteen cents (\$0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by paragraph (1) shall be increased by an amount so that the combined state rate under paragraph (1) and the federal tax

1 rate per gallon equal what it would have been in the absence of
2 the federal reduction.

3 (3) If any person or entity is exempt or partially exempt from
4 the federal fuel tax at the time of a reduction, the person or entity
5 shall continue to be exempt under this section.

6 (b) On and after November 1, 2017, in addition to the tax
7 imposed pursuant to subdivision (a), an additional tax of twenty
8 cents (\$0.20) is hereby imposed upon each gallon of diesel fuel
9 subject to the tax in Sections 60051, 60052, and 60058.

10 (c) On July 1, 2020, and every July 1 thereafter, the State Board
11 of Equalization shall adjust the taxes imposed by subdivisions (a),
12 and (b), with the adjustment to apply to both to the base tax rates
13 specified in those provisions and to any previous adjustment in
14 rates made pursuant to this subdivision, by increasing the taxes by
15 a percentage amount equal to the increase in the California
16 Consumer Price Index, as calculated by the Department of Finance
17 with the resulting taxes rounded to the nearest one-tenth of one
18 cent (\$0.01). The first adjustment pursuant to this subdivision shall
19 be a percentage amount equal to the increase in the California
20 Consumer Price Index from November 1, 2017, to November 1,
21 2019. Subsequent annual adjustments shall cover subsequent 12
22 month periods. The incremental change shall be added to the
23 associated rate for that year.

24 (d) Any changes to the taxes imposed under this section that
25 are enacted by legislation subsequent to July 1, 2017, shall be
26 deemed to be changes to the base tax rates for purposes of the
27 California Consumer Price Index calculation and adjustment
28 performed pursuant to paragraph (1).

29 SEC. 33. Section 60050.2 is added to the Revenue and Taxation
30 Code, to read:

31 60050.2. (a) For the privilege of storing, for the purpose of
32 sale, each supplier, wholesaler, and retailer owning 1,000 or more
33 gallons of tax-paid diesel fuel on November 1, 2017, shall pay a
34 storage tax of twenty cents (\$0.20) per gallon of tax-paid diesel
35 fuel in storage according to the volumetric measure thereof.

36 (b) For purposes of this section:

37 (1) "Owning" means having title to the diesel fuel.

38 (2) "Retailer" means any person who sells diesel fuel in this
39 state to a person who subsequently uses the diesel fuel.

(3) “Storing” includes the ownership or possession of tax-paid diesel fuel outside of the bulk transfer/terminal system, including the holding of tax-paid diesel fuel for sale at wholesale or retail locations stored in a container of any kind, including railroad tank cars and trucks or trailer cargo tanks. “Storing” also includes tax-paid diesel fuel purchased from and invoiced by the seller, and tax-paid diesel fuel removed from a terminal or entered into by a supplier, prior to the date specified in subdivision (a) and in transit on that date.

(4) “Wholesaler” means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the diesel fuel.

SEC. 34. Section 60201.4 is added to the Revenue and Taxation Code, to read:

60201.4. On or before January 1, 2018, each person subject to the storage tax imposed under Section 60050.2 shall prepare and file with the board, in a form prescribed by the board, a return showing the total number of gallons of tax-paid diesel fuel owned by the person on November 1, 2017, the amount of the storage tax, and any other information that the board deems necessary for the proper administration of this part. The return shall be accompanied by a remittance payable to the board in the amount of tax due.

SEC. 35. Article 2.5 (commencing with Section 800) is added to Chapter 4 of Division 1 of the Streets and Highways Code, to read:

Article 2.5. Advance Mitigation Program

800. (a) The Advance Mitigation Program is hereby created to enhance communications between the department and stakeholders to protect natural resources through project mitigation, to meet or exceed applicable environmental requirements, to accelerate project delivery, and to fully mitigate environmental impacts from transportation infrastructure projects. The department shall consult on all activities pursuant to this article with the Department of Fish and Wildlife, including activities pursuant to Chapter 9 (commencing with Section 1850) of Division 2 of the Fish and Game Code.

(b) Commencing with the 2017–18 fiscal year, and for a period of four years, the department shall set aside no less than thirty million dollars (\$30,000,000) annually for the Advance Mitigation Program from the annual appropriations for the State Transportation Improvement Program and the State Highway Operation and Protection Program for the planning and implementation of projects in the Advanced Mitigation Program.

(c) The annual Budget Act and subsequent legislation may establish additional provisions and requirements for the program.

SEC. 36. Chapter 2 (commencing with Section 2030) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 2. ROAD MAINTENANCE AND REHABILITATION
PROGRAM

2030. (a) The Road Maintenance and Rehabilitation Program is hereby created to address deferred maintenance on the state highway system and the local street and road system. Funds made available by the program shall be prioritized for expenditure on basic road maintenance and road rehabilitation projects, and on critical safety projects.

(b) (1) Funds made available by the program shall be used for projects that include, but are not limited to, the following:

(A) Road maintenance and rehabilitation.

(B) Safety projects.

(C) Railroad grade separations.

(D) Complete street components, including active transportation purposes, pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project.

(E) Traffic control devices.

(2) Funds made available by the program may also be used to satisfy a match requirement in order to obtain state or federal funds for projects authorized by this subdivision.

(c) To the extent possible and cost effective, and where feasible, the department and cities and counties receiving funds under the program shall use advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating the streets and highways, and that exhibit reduced levels of

1 greenhouse gas emissions through material choice and construction
2 method.

3 (d) To the extent possible and cost effective, and where feasible,
4 the department and cities and counties receiving funds under the
5 program shall use advanced technologies and communications
6 systems in transportation infrastructure that recognize and
7 accommodate advanced automotive technologies that may include,
8 but are not necessarily limited to, charging or fueling opportunities
9 for zero-emission vehicles, and provision of
10 infrastructure-to-vehicle communications for transitional or full
11 autonomous vehicle systems.

12 (e) To the extent deemed cost effective, and where feasible, in
13 the context of both the project scope and the risk level for the asset
14 due to global climate change, the department and cities and
15 counties receiving funds under the program shall include features
16 in the projects funded by the program to better adapt the asset to
17 withstand the negative effects of climate change and make the
18 asset more resilient to impacts such as fires, floods, and sea level
19 rise.

20 (f) To the extent beneficial, cost effective, and practicable in
21 the context of facility type, right-of-way, project scope, and quality
22 of nearby alternative facilities, and where feasible, the department
23 and cities and counties receiving funds under the program shall
24 incorporate complete street elements into projects funded by the
25 program, including, but not limited to, elements that improve the
26 quality of bicycle and pedestrian facilities and that improve safety
27 for all users of transportation facilities.

28 (g) For purposes of funds directed to the State Highway
29 Operation and Protection Program, the guidelines and reporting
30 provisions shall be consistent with Section 14526.5 of the
31 Government Code.

32 (h) Guidelines adopted by the commission to facilitate the
33 allocation of funds in the account shall be exempt from the
34 Administrative Procedure Act (Chapter 3.5 (commencing with
35 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
36 Code).

37 2031. The following revenues shall be deposited in the Road
38 Maintenance and Rehabilitation Account, which is hereby created
39 in the State Transportation Fund:

1 (a) Notwithstanding subdivision (b) of Section 2103 and
2 pursuant to subdivision (a) of Section 2103.1, the portion of the
3 revenues in the Highway Users Tax Account attributable to the
4 increases in the motor vehicle fuel excise tax pursuant to
5 subdivision (c) of Section 7360 of the Revenue and Taxation Code,
6 as adjusted pursuant to subdivision (d) of that section.

7 (b) The revenues from the portion of the transportation
8 improvement fee pursuant to subdivision (c) of Section 11053 of
9 the Revenue and Taxation Code.

10 (c) The revenues from the increase in the vehicle registration
11 fee pursuant to Section 9250.6 of the Vehicle Code, as adjusted
12 pursuant to subdivision (b) of that section.

13 (d) Notwithstanding subdivision (b) of Section 2103 and
14 pursuant to paragraph (2) of subdivision (b) of Section 2103.1,
15 one-half of the revenues attributable to the increase in the diesel
16 fuel excise tax pursuant to subdivisions (b) and (c) of Section
17 60050 of the Revenue and Taxation Code.

18 (e) Any other revenues designated for the program.

19 2031.5. For each fiscal year, the annual Budget Act shall
20 contain an appropriation from the Road Maintenance and
21 Rehabilitation Account for the costs of administering this chapter.

22 2032. (a) (1) After deducting the amounts appropriated in the
23 annual Budget Act, as provided in Section 2031.5, two hundred
24 million dollars (\$200,000,000) of the remaining revenues deposited
25 in the Road Maintenance and Rehabilitation Account shall be set
26 aside annually for counties that have sought and received voter
27 approval of taxes or that have imposed fees, including uniform
28 developer fees as defined by subdivision (b) of Section 8879.67
29 of the Government Code, which taxes or fees are dedicated solely
30 to transportation improvements. The Controller shall each month
31 set aside one-twelfth of this amount, to accumulate a total of two
32 hundred million dollars (\$200,000,000) in each fiscal year.

33 (2) Eligible projects under this subdivision shall include, but
34 not are limited to, sound walls for a freeway that was built prior
35 to 1987 without sound walls and with or without high occupancy
36 vehicle lanes if the completion of the sound walls has been deferred
37 due to lack of available funding for at least twenty years and a
38 noise barrier scope summary report has been completed within the
39 last twenty years.

(3) Notwithstanding Section 13340 of the Government Code, the funds available under this subdivision in each fiscal year are hereby continuously appropriated for allocation to each eligible county and each city in the county for road maintenance and rehabilitation purposes pursuant to Section 2033.

(b) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amount allocated in subdivision (a), beginning in the 2017–18 fiscal year, one hundred million dollars (\$100,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, on the Active Transportation Program created pursuant to Chapter 8 (commencing with Section 2380) of Division 3 to be allocated by the California Transportation Commission pursuant to Section 2381. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of one hundred million dollars (\$100,000,000) in each fiscal year.

(c) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a) and (b), beginning in the 2017–18 fiscal year, four hundred million dollars (\$400,000,000) of the remaining revenues shall be available annually for expenditure, upon appropriation by the Legislature, by the department for bridge and culvert maintenance and rehabilitation. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of four hundred million dollars (\$400,000,000) in each fiscal year.

(d) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), and (c), beginning in the 2017–18 fiscal year, twenty-five million dollars (\$25,000,000) of the remaining revenues shall be transferred annually to the State Highway Account for expenditure, upon appropriation by the Legislature, to supplement the freeway service patrol program. The Controller shall each month set aside one-twelfth of this amount, to accumulate a total of twenty-five million dollars (\$25,000,000) in each fiscal year.

(e) After deducting the amounts appropriated in the annual Budget Act pursuant to Section 2031.5 and the amounts allocated in subdivisions (a), (b), (c), and (d), in the 2017–18, 2018–19, 2019–20, 2020–21, and 2021–22 fiscal years, from revenues in the Road Maintenance and Rehabilitation Account that are not

1 subject to Article XIX of the California Constitution, five million
2 dollars (\$5,000,000) shall be appropriated in each fiscal year to
3 the California Workforce Development Board to assist local
4 agencies to implement policies to promote preapprenticeship
5 training programs to carry out the projects that are funded by the
6 account pursuant to Section 2038. Funds appropriated pursuant to
7 this subdivision in the Budget Act but remaining unexpended at
8 the end of each applicable fiscal year shall be reappropriated for
9 the same purposes in the following year's Budget Act, but all funds
10 appropriated or reappropriated pursuant to this subdivision in the
11 Budget Act shall be liquidated no later than June 30, 2027.

12 (f) After deducting the amounts appropriated in the annual
13 Budget Act pursuant to Section 2031.5 and the amounts allocated
14 in subdivisions (a), (b), (c), (d), and (e), beginning in the 2017–18
15 fiscal year, twenty-five million dollars (\$25,000,000) of the
16 remaining revenues shall be available annually for expenditure,
17 upon appropriation by the Legislature, by the department for local
18 planning grants, as described in Section 2033.5. The Controller
19 shall each month set aside one-twelfth of this amount, to
20 accumulate a total of twenty-five million dollars (\$25,000,000) in
21 each fiscal year.

22 (g) After deducting the amounts appropriated in the annual
23 Budget Act pursuant to Section 2031.5 and the amounts allocated
24 in subdivisions (a), (b), (c), (d), (e), and (f), beginning in the
25 2017–18 fiscal year and each fiscal year thereafter, from the
26 remaining revenues, five million dollars (\$5,000,000) shall be
27 available, upon appropriation, to the University of California for
28 the purpose of conducting transportation research and two million
29 dollars (\$2,000,000) shall be available, upon appropriation, to the
30 California State University for the purpose of conducting
31 transportation research and transportation-related workforce
32 education, training, and development. Prior to the start of each
33 fiscal year, the Secretary of Transportation and the chairs of the
34 Assembly Committee on Transportation and the Senate Committee
35 on Transportation and Housing may set out a recommended priority
36 list of research components to be addressed in the upcoming fiscal
37 year.

38 (h) Notwithstanding Section 13340 of the Government Code,
39 the balance of the revenues deposited in the Road Maintenance

1 and Rehabilitation Account are hereby continuously appropriated
2 as follows:

3 (1) Fifty percent for allocation to the department for maintenance
4 of the state highway system or for purposes of the state highway
5 operation and protection program.

6 (2) Fifty percent for apportionment to cities and counties by the
7 Controller pursuant to the formula in clauses (i) and (ii) of
8 subparagraph (C) of paragraph (3) of subdivision (a) of Section
9 2103 for the purposes authorized by this chapter.

10 2032.5. (a) It is the intent of the Legislature that the
11 Department of Transportation and local governments are held
12 accountable for the efficient investment of public funds to maintain
13 the public highways, streets, and roads, and are accountable to the
14 people through performance goals that are tracked and reported.

15 (b) The department shall annually report to the commission
16 relative to the expenditures made with funds received pursuant to
17 subdivision (c) of, and paragraph (1) of subdivision (g) of, Section
18 2032, and the progress made and achievement of the performance
19 goals outlined in subdivision (n) of Section 1 of the act adding this
20 section.

21 (c) For each fiscal year in which the department receives an
22 allocation of funds described in subdivision (b), the department
23 shall submit documentation to the commission that includes a
24 description and the location of each completed project, the amount
25 of funds expended on the project, the completion date, and the
26 project's estimated useful life. Annually, the commission shall
27 evaluate the effectiveness of the department in reducing deferred
28 maintenance and improving road conditions on the state highway
29 system, as demonstrated by the progress made by the goals set
30 forth in subdivision (n) of Section 1 of the act enacting this section.
31 The commission may make recommendations for improvement
32 and may withhold future project allocations if it determines
33 program funds are not being appropriately spent. The commission
34 shall annually include any findings in its annual report to the
35 Legislature pursuant to Section 14535 of the Government Code.

36 (d) The department shall implement efficiency measures with
37 the goal to generate at least one hundred million dollars
38 (\$100,000,000) per year in savings to invest in maintenance and
39 rehabilitation of the state highway system. These savings shall be
40 reported to the commission.

1 2033. (a) On or before January 1, 2018, the commission, in
2 cooperation with the department, transportation planning agencies,
3 county transportation commissions, and other local agencies, shall
4 develop guidelines for the allocation of funds pursuant to
5 subdivision (a) of Section 2032.

6 (b) The guidelines shall be the complete and full statement of
7 the policy, standards, and criteria that the commission intends to
8 use to determine how these funds will be allocated.

9 (c) The commission may amend the adopted guidelines after
10 conducting at least one public hearing.

11 2033.5. The department, from funds made available pursuant
12 to subdivision (f) of Section 2032, shall allocate local planning
13 grants to encourage local and regional planning that furthers state
14 goals, including, but not limited to, the goals and best practices
15 cited in the regional transportation guidelines adopted by the
16 commission pursuant to Sections 14522 to 14522.3, inclusive, of
17 the Government Code. The department shall develop a grant guide
18 and shall consult with the State Air Resources Board, the
19 Governor's Office of Planning and Research, and the Department
20 of Housing and Community Development in the development of
21 the grant guide, and shall provide status reports as it administers
22 these funds. The grant guide shall be exempt from the
23 Administrative Procedure Act (Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code).

26 2034. (a) (1) Prior to receiving an apportionment of funds
27 under the program pursuant to paragraph (2) of subdivision (h) of
28 Section 2032 from the Controller in a fiscal year, an eligible city
29 or county shall submit to the commission a list of projects proposed
30 to be funded with these funds pursuant to an adopted city or county
31 budget. All projects proposed to receive funding shall be included
32 in a city or county budget that is adopted by the applicable city
33 council or county board of supervisors at a regular public meeting.
34 The list of projects proposed to be funded with these funds shall
35 include a description and the location of each proposed project, a
36 proposed schedule for the project's completion, and the estimated
37 useful life of the improvement. The project list shall not limit the
38 flexibility of an eligible city or county to fund projects in
39 accordance with local needs and priorities so long as the projects
40 are consistent with subdivision (b) of Section 2030.

1 (2) The commission shall report to the Controller the cities and
2 counties that have submitted a list of projects as described in this
3 subdivision and that are therefore eligible to receive an
4 apportionment of funds under the program for the applicable fiscal
5 year. The Controller, upon receipt of the report, shall apportion
6 funds to eligible cities and counties.

7 (b) For each fiscal year, each city or county receiving an
8 apportionment of funds shall, upon expending program funds,
9 submit documentation to the commission that includes a description
10 and location of each completed project, the amount of funds
11 expended on the project, the completion date, and the estimated
12 useful life of the improvement.

13 2036. (a) Cities and counties shall maintain their existing
14 commitment of local funds for street, road, and highway purposes
15 in order to remain eligible for an allocation or apportionment of
16 funds pursuant to Section 2032.

17 (b) In order to receive an allocation or apportionment pursuant
18 to Section 2032, the city or county shall annually expend from its
19 general fund for street, road, and highway purposes an amount not
20 less than the annual average of its expenditures from its general
21 fund during the 2009–10, 2010–11, and 2011–12 fiscal years, as
22 reported to the Controller pursuant to Section 2151. For purposes
23 of this subdivision, in calculating a city's or county's annual
24 general fund expenditures and its average general fund expenditures
25 for the 2009–10, 2010–11, and 2011–12 fiscal years, any
26 unrestricted funds that the city or county may expend at its
27 discretion, including vehicle in-lieu tax revenues and revenues
28 from fines and forfeitures, expended for street, road, and highway
29 purposes shall be considered expenditures from the general fund.
30 One-time allocations that have been expended for street and
31 highway purposes, but which may not be available on an ongoing
32 basis, including revenue provided under the Teeter Plan Bond Law
33 of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1
34 of Division 2 of Title 5 of the Government Code), may not be
35 considered when calculating a city's or county's annual general
36 fund expenditures.

37 (c) For any city incorporated after July 1, 2009, the Controller
38 shall calculate an annual average expenditure for the period
39 between July 1, 2009, and December 31, 2015, inclusive, that the
40 city was incorporated.

1 (d) For purposes of subdivision (b), the Controller may request
2 fiscal data from cities and counties in addition to data provided
3 pursuant to Section 2151, for the 2009–10, 2010–11, and 2011–12
4 fiscal years. Each city and county shall furnish the data to the
5 Controller not later than 120 days after receiving the request. The
6 Controller may withhold payment to cities and counties that do
7 not comply with the request for information or that provide
8 incomplete data.

9 (e) The Controller may perform audits to ensure compliance
10 with subdivision (b) when deemed necessary. Any city or county
11 that has not complied with subdivision (b) shall reimburse the state
12 for the funds it received during that fiscal year. Any funds withheld
13 or returned as a result of a failure to comply with subdivision (b)
14 shall be reapportioned to the other counties and cities whose
15 expenditures are in compliance.

16 (f) If a city or county fails to comply with the requirements of
17 subdivision (b) in a particular fiscal year, the city or county may
18 expend during that fiscal year and the following fiscal year a total
19 amount that is not less than the total amount required to be
20 expended for those fiscal years for purposes of complying with
21 subdivision (b).

22 2037. A city or county may spend its apportionment of funds
23 under the program on transportation priorities other than those
24 allowable pursuant to this chapter if the city's or county's average
25 Pavement Condition Index meets or exceeds 80.

26 2038. The California Workforce Development Board shall
27 develop guidelines for public agencies receiving Road Maintenance
28 and Rehabilitation Account funds to participate in, invest in, or
29 partner with, new or existing preapprenticeship training programs
30 established pursuant to subdivision (e) of Section 14230 of the
31 Unemployment Insurance Code. The department and local agencies
32 that receive Road Maintenance and Rehabilitation Account funds
33 pursuant to this chapter shall, not later than July 1, 2023, follow
34 the guidelines set forth by the board. The board shall also establish
35 a preapprenticeship development and training grant program,
36 beginning January 1, 2019, pursuant to subdivision (e) of Section
37 14230 of the Unemployment Insurance Code. Local public agencies
38 that receive Road Maintenance and Rehabilitation Account funds
39 pursuant to this chapter are eligible to compete for such grants and
40 may apply in partnership with other agencies and entities, including

1 those with existing preapprenticeship programs. Successful grant
2 applicants shall, to the extent feasible:

3 (a) Follow the multicraft core curriculum implemented by the
4 State Department of Education for its pilot project with the
5 California Partnership Academies and by the California Workforce
6 Development Board and local boards.

7 (b) Include a plan for outreach to and retention of women
8 participants in the preapprenticeship program to help increase the
9 representation of women in the building and construction trades.

10 (c) Include a plan for outreach to and retention of minority
11 participants and underrepresented subgroups in the
12 preapprenticeship program to help increase their representation in
13 the building and construction trades.

14 (d) Include a plan for outreach to and retention of disadvantaged
15 youth participants in the preapprenticeship program to help increase
16 their employment opportunities in the building and construction
17 trades.

18 (e) Include a plan for outreach to individuals in the local labor
19 market area and to formerly incarcerated individuals to provide
20 pathways to employment and training.

21 (f) Coordinate with local state-approved apprenticeship
22 programs, local building trade councils, and to the extent possible
23 the California Conservation Corps and certified community
24 conservation corps, so individuals who have completed these
25 programs have a pathway to continued employment.

26 SEC. 37. Section 2103.1 is added to the Streets and Highways
27 Code, to read:

28 2103.1. (a) Notwithstanding subdivision (b) of Section 2103,
29 the portion of revenues in the Highway Users Tax Account
30 attributable to the increases in the motor vehicle fuel excise tax
31 pursuant to subdivision (c) of Section 7360 of the Revenue and
32 Taxation Code, as adjusted pursuant to subdivision (d) of that
33 section, shall be transferred to the Road Maintenance and
34 Rehabilitation Account pursuant to Section 2031.

35 (b) Notwithstanding subdivision (b) of Section 2103, the portion
36 of revenues in the Highway Users Tax Account attributable to the
37 increase in the diesel fuel excise tax pursuant to subdivision (b)
38 of Section 60050 of the Revenue and Taxation Code, as adjusted
39 pursuant to subdivision (c) of that section, shall be transferred as
40 follows:

1 (1) Fifty percent to the Trade Corridors Enhancement Account
2 pursuant to Section 2192.4.

3 (2) Fifty percent to the Road Maintenance and Rehabilitation
4 Account pursuant to Section 2031.

5 (c) Notwithstanding subdivision (b) of Section 2103, the portion
6 of the revenues in the Highway Users Tax Account attributable to
7 the storage taxes imposed pursuant to Sections 7361.2 and 60050.2
8 of the Revenue and Taxation Code shall be deposited in the Road
9 Maintenance and Rehabilitation Account created pursuant to
10 Section 2031.

11 SEC. 38. Section 2104 of the Streets and Highways Code is
12 amended to read:

13 2104. Notwithstanding Section 13340 of the Government Code,
14 a sum equal to the net revenue derived from 11.3 percent of the
15 per gallon tax under the Motor Vehicle Fuel License Tax Law
16 (Part 2 (commencing with Section 7301) of Division 2), 1.80 cents
17 (\$0.0180) under the Use Fuel Tax Law (Part 3 (commencing with
18 Section 8601) of Division 2), and 11.5 percent of the per gallon
19 tax under the Diesel Fuel Tax Law (Part 31 (commencing with
20 Section 60001) of Division 2) of the Revenue and Taxation Code,
21 shall be apportioned among the counties, as follows:

22 (a) Each county shall be paid one thousand six hundred
23 sixty-seven dollars (\$1,667) during each calendar month, which
24 amount shall be expended exclusively for engineering costs and
25 administrative expenses with respect to county roads.

26 (b) A sum equal to the total of all reimbursable snow removal
27 or snow grooming, or both, costs filed pursuant to subdivision (d)
28 of Section 2152, or seven million dollars (\$7,000,000), whichever
29 is less, shall be apportioned in 12 approximately equal monthly
30 apportionments for snow removal or snow grooming, or both, on
31 county roads, as provided in Section 2110.

32 (c) A sum equal to five hundred thousand dollars (\$500,000)
33 shall be apportioned in 12 approximately equal monthly
34 apportionments, as provided in Section 2110.5.

35 (d) (1) Seventy-five percent of the funds payable under this
36 section shall be apportioned among the counties monthly in the
37 respective proportions that the number of fee-paid and exempt
38 vehicles which are registered in each county bears to the total
39 number of fee-paid and exempt vehicles registered in the state.

(2) For purposes of apportionment under this subdivision, the Department of Motor Vehicles shall, as soon as possible after the last day of each calendar month, furnish to the Controller a verified statement showing the number of fee-paid and exempt vehicles which are registered in each county and in the state as of the last day of each calendar month as reflected by the records of the Department of Motor Vehicles.

(e) Of the remaining money payable, there shall be paid to each eligible county an amount that is computed monthly as follows: The number of miles of maintained county roads in each county shall be multiplied by sixty dollars (\$60); from the resultant amount, there shall be deducted the amount received by each county under subdivision (d) and the remainder, if any, shall be paid to each county.

(f) The remaining money payable, after the foregoing apportionments, shall be apportioned among the counties in the same proportion as the money referred to in subdivision (d).

(g) (1) Transfers of revenues from the Highway Users Tax Account to counties pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008. This suspension shall not apply to a county with a population of less than 40,000.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a county may make use of any cash balance in its county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid in September of 2008. Counties may accrue the revenue received in September 2008 as repayment of these suspensions for the months of April, May, and June of 2008 back to the 2007–08 fiscal year. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all the requirements of those funding sources.

1 (h) (1) The transfer of revenues from the Highway Users Tax
2 Account to counties pursuant to this section that are collected
3 during the months of January, February, and March 2009, shall be
4 made with the transfer of April 2009 revenues in May 2009.

5 (2) For the purpose of meeting the cash obligations associated
6 with ongoing budgeted costs, a county may make use of any cash
7 balance in its county road fund, including that resulting from the
8 receipt of funds pursuant to the Highway Safety, Traffic Reduction,
9 Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49
10 (commencing with Section 8879.20) of Division 1 of Title 2 of
11 the Government Code (bond act)) for local streets and roads
12 maintenance during the period of this suspension, provided the
13 cash is replaced once this suspension is repaid in May of 2009.

14 (3) This subdivision shall not affect any requirement that an
15 expenditure is required to be accrued and reflected from the
16 appropriate funding source for which the money was received and
17 to meet all the requirements of its funding source.

18 SEC. 39. Section 2105 of the Streets and Highways Code is
19 amended to read:

20 2105. Notwithstanding Section 13340 of the Government Code,
21 in addition to the apportionments prescribed by Sections 2104,
22 2106, and 2107, from the revenues derived from a per gallon tax
23 imposed pursuant to Section 7360 of the Revenue and Taxation
24 Code, and a per gallon tax imposed pursuant to Sections 8651,
25 8651.5, and 8651.6 of the Revenue and Taxation Code, and a per
26 gallon tax imposed pursuant to Sections 60050 and 60115 of the
27 Revenue and Taxation Code, the following apportionments shall
28 be made:

29 (a) A sum equal to 5.8 percent of the per gallon tax under
30 Section 7360 of the Revenue and Taxation Code, 11.5 percent of
31 any per gallon tax in excess of nine cents (\$0.09) per gallon under
32 Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation
33 Code, and 6.5 percent of the per gallon tax under Sections 60050
34 and 60115 of the Revenue and Taxation Code, shall be apportioned
35 among the counties, including a city and county.

36 The amount of apportionment to each county, including a city
37 and county, during a fiscal year shall be calculated as follows:

38 (1) One million dollars (\$1,000,000) for apportionment to all
39 counties, including a city and county, in proportion to each county's
40 receipts during the prior fiscal year under Sections 2104 and 2106.

(2) One million dollars (\$1,000,000) for apportionment to all counties, including a city and county, as follows:

(A) Seventy-five percent in the proportion that the number of fee-paid and exempt vehicles which are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent in the proportion that the number of miles of maintained county roads in the county bears to the miles of maintained county roads in the state.

(3) For each county, determine its factor which is the higher amount calculated pursuant to paragraph (1) or (2) divided by the sum of the higher amounts for all of the counties.

(4) The amount to be apportioned to each county is equal to its factor multiplied by the amount available for apportionment.

(b) A sum equal to 5.8 percent of the per gallon tax under Section 7360 of the Revenue and Taxation Code, 11.5 percent of any per gallon tax in excess of nine cents (\$0.09) per gallon under Sections 8651, 8651.5, and 8651.6 of the Revenue and Taxation Code, and 6.5 percent of the per gallon tax under Sections 60050 and 60115 of the Revenue and Taxation Code, shall be apportioned to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(c) (1) Transfers of revenues from the Highway Users Tax Account to counties or cities pursuant to this section collected during the months of March, April, May, June, and July of 2008, shall be made with the transfer of August 2008 revenues in September of 2008. This suspension shall not apply to a county with a population of less than 40,000.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in the city account that is designated for the receipt of state funds allocated for local streets and roads or the county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local streets and roads maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the

1 cash is replaced once this suspension is repaid in September of
2 2008. Counties and cities may accrue the revenue received in
3 September 2008 as repayment of these suspensions for the months
4 of April, May, and June of 2008 back to the 2007–08 fiscal year.
5 Nothing in this paragraph shall change the fact that expenditures
6 must be accrued and reflected from the appropriate funding sources
7 for which the moneys were received and meet all the requirements
8 of those funding sources.

9 (d) (1) The transfer of revenues from the Highway Users Tax
10 Account to counties or cities pursuant to this section collected
11 during the months of January, February, and March 2009 shall be
12 made with the transfer of April 2009 revenues in May 2009.

13 (2) For the purpose of meeting the cash obligations associated
14 with ongoing budgeted costs, a city or county may make use of
15 any cash balance in the city account that is designated for the
16 receipt of state funds allocated for local streets and roads or the
17 county road fund, including that resulting from the receipt of funds
18 pursuant to the Highway Safety, Traffic Reduction, Air Quality,
19 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing
20 with Section 8879.20) of Division 1 of Title 2 of the Government
21 Code (bond act)) for local streets and roads maintenance, during
22 the period of this suspension, and the use of this cash shall not be
23 considered as an expenditure of bond act funds, if the cash is
24 replaced when the payments that are suspended pursuant to this
25 subdivision are repaid in May 2009.

26 (3) This subdivision shall not affect any requirement that an
27 expenditure is required to be accrued and reflected from the
28 appropriate funding source for which the money was received and
29 to meet all the requirements of its funding source.

30 SEC. 40. Section 2106 of the Streets and Highways Code is
31 amended to read:

32 2106. Notwithstanding Section 13340 of the Government Code,
33 a sum equal to the net revenue derived from 5.3 percent of the per
34 gallon tax under the Motor Vehicle Fuel License Tax Law (Part 2
35 (commencing with Section 7301) of Division 2 of the Revenue
36 and Taxation Code) shall be apportioned monthly from the
37 Highway Users Tax Account in the Transportation Tax Fund
38 among the counties and cities as follows:

1 (a) Four hundred dollars (\$400) per month shall be apportioned
2 to each city and city and county and eight hundred dollars (\$800)
3 per month shall be apportioned to each county and city and county.

4 (b) On the last day of each month, the sum of six hundred
5 thousand dollars (\$600,000) shall be transferred to the State
6 Highway Account in the State Transportation Fund for the Active
7 Transportation Program pursuant to Chapter 8 (commencing with
8 Section 2380). For each month in the 2013–14 fiscal year that has
9 passed prior to the enactment of the bill adding this sentence, six
10 hundred thousand dollars (\$600,000) shall be immediately
11 transferred from the Bicycle Transportation Account to the State
12 Highway Account in the State Transportation Fund for the Active
13 Transportation Program, less any amount already expended for
14 that program from the Bicycle Transportation Account during the
15 2013–14 fiscal year.

16 (c) The balance shall be apportioned, as follows:

17 (1) A base sum shall be computed for each county by using the
18 same proportions of fee-paid and exempt vehicles as are established
19 for purposes of apportionment of funds under subdivision (d) of
20 Section 2104.

21 (2) For each county, the percentage of the total assessed
22 valuation of tangible property subject to local tax levies within the
23 county which is represented by the assessed valuation of tangible
24 property outside the incorporated cities of the county shall be
25 applied to its base sum, and the resulting amount shall be
26 apportioned to the county. The assessed valuation of taxable
27 tangible property, for purposes of this computation, shall be that
28 most recently used for countywide tax levies as reported to the
29 Controller by the State Board of Equalization. If an incorporation
30 or annexation is legally completed following the base sum
31 computation, the new city's assessed valuation shall be deducted
32 from the county's assessed valuation, the estimate of which may
33 be provided by the State Board of Equalization.

34 (3) The difference between the base sum for each county and
35 the amount apportioned to the county shall be apportioned to the
36 cities of that county in the proportion that the population of each
37 city bears to the total population of all the cities in the county.
38 Populations used for determining apportionment of money under
39 Section 2107 are to be used for purposes of this section.

1 (d) (1) Transfers of revenues from the Highway Users Tax
2 Account to counties or cities pursuant to this section collected
3 during the months of March, April, May, June, and July of 2008,
4 shall be made with the transfer of August 2008 revenues in
5 September of 2008. This suspension shall not apply to a county
6 with a population of less than 40,000.

7 (2) For the purpose of meeting the cash obligations associated
8 with ongoing budgeted costs, a city or county may make use of
9 any cash balance in the city account that is designated for the
10 receipt of state funds allocated for local streets and roads or the
11 county road fund, including that resulting from the receipt of funds
12 pursuant to the Highway Safety, Traffic Reduction, Air Quality,
13 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing
14 with Section 8879.20) of Division 1 of Title 2 of the Government
15 Code (hereafter bond act)) for local streets and roads maintenance,
16 during the period of this suspension, without the use of this cash
17 being reflected as an expenditure of bond act funds, provided the
18 cash is replaced once this suspension is repaid in September of
19 2008. Counties and cities may accrue the revenue received in
20 September 2008 as repayment of these suspensions for the months
21 of April, May, and June of 2008 back to the 2007–08 fiscal year.
22 Nothing in this paragraph shall change the fact that expenditures
23 must be accrued and reflected from the appropriate funding sources
24 for which the moneys were received and meet all the requirements
25 of those funding sources.

26 (e) (1) The transfer of revenues from the Highway Users Tax
27 Account to counties or cities pursuant to this section collected
28 during the months of January, February, and March 2009, shall be
29 made with the transfer of April 2009 revenues in May 2009.

30 (2) For the purpose of meeting the cash obligations associated
31 with ongoing budgeted costs, a city or county may make use of
32 any cash balance in the city account that is designated for the
33 receipt of state funds allocated for local streets and roads or the
34 county road fund, including that resulting from the receipt of funds
35 pursuant to the Highway Safety, Traffic Reduction, Air Quality,
36 and Port Security Bond Act of 2006 (Chapter 12.49 (commencing
37 with Section 8879.20) of Division 1 of Title 2 of the Government
38 Code (bond act)) for local streets and roads maintenance, during
39 the period of this suspension, and the use of this cash shall not be
40 considered as an expenditure of bond act funds, if the cash is

1 replaced when the payments that are suspended pursuant to this
2 subdivision are repaid in May 2009.

3 (3) This subdivision shall not affect any requirement that an
4 expenditure is required to be accrued and reflected from the
5 appropriate funding source for which the money was received and
6 to meet all the requirements of its funding source.

7 SEC. 41. Section 2107 of the Streets and Highways Code is
8 amended to read:

9 2107. (a) Notwithstanding Section 13340 of the Government
10 Code, a sum equal to the net revenues derived from 7.3 percent of
11 the per gallon tax under the Motor Vehicle Fuel License Tax Law
12 (Part 2 (commencing with Section 7301) of Division 2), 2.59 cents
13 (\$0.0259) under the Use Fuel Tax Law (Part 3 (commencing with
14 Section 8601) of Division 2), and 11.5 percent under the Diesel
15 Fuel Tax Law (Part 31 (commencing with Section 60001) of
16 Division 2) of the Revenue and Taxation Code, shall be
17 apportioned monthly to the cities and cities and counties of this
18 state from the Highway Users Tax Account in the Transportation
19 Tax Fund as provided in this section.

20 (b) From the sum determined pursuant to subdivision (a), the
21 Controller shall allocate annually to each city that has filed a report
22 containing the information prescribed by subdivision (c) of Section
23 2152, and that had expenditures in excess of five thousand dollars
24 (\$5,000) during the preceding fiscal year for snow removal, an
25 amount equal to one-half of the amount of its expenditures for
26 snow removal in excess of five thousand dollars (\$5,000) during
27 that fiscal year.

28 (c) The balance of the sum determined pursuant to subdivision
29 (a) from the Highway Users Tax Account shall be allocated to
30 each city, including city and county, in the proportion that the total
31 population of the city bears to the total population of all the cities
32 in this state.

33 (d) (1) For the purpose of this section, except as otherwise
34 provided in paragraph (2), the population in each city is the
35 population determined for that city in the manner specified in
36 Section 11005.3 of the Revenue and Taxation Code.

37 (2) Commencing with the ninth fiscal year of a city described
38 in subdivision (a) of Section 11005.3 of the Revenue and Taxation
39 Code, the sixth fiscal year of a city described in subdivision (b) of
40 Section 11005.3 of the Revenue and Taxation Code, and the 61st

1 month of the city described in subdivision (c) of Section 11005.3
2 of the Revenue and Taxation Code, the population in each city is
3 the actual population of that city, as defined in subdivision (e) of
4 Section 11005.3 of the Revenue and Taxation Code.

5 (e) (1) Transfers of revenues from the Highway Users Tax
6 Account to cities pursuant to this section collected during the
7 months of March, April, May, June, and July of 2008, shall be
8 made with the transfer of August 2008 revenues in September of
9 2008.

10 (2) For the purpose of meeting the cash obligations associated
11 with ongoing budgeted costs, a city may make use of any cash
12 balance in the city account that is designated for the receipt of state
13 funds allocated for local streets and roads, including that resulting
14 from the receipt of funds pursuant to the Highway Safety, Traffic
15 Reduction, Air Quality, and Port Security Bond Act of 2006
16 (Chapter 12.49 (commencing with Section 8879.20) of Division
17 1 of Title 2 of the Government Code (hereafter bond act)) for local
18 streets and roads maintenance, during the period of this suspension,
19 without the use of this cash being reflected as an expenditure of
20 bond act funds, provided the cash is replaced once this suspension
21 is repaid in September of 2008. Cities may accrue the revenue
22 received in September 2008 as repayment of these suspensions for
23 the months of April, May, and June of 2008 back to the 2007–08
24 fiscal year. Nothing in this paragraph shall change the fact that
25 expenditures must be accrued and reflected from the appropriate
26 funding sources for which the moneys were received and meet all
27 the requirements of those funding sources.

28 (f) (1) A transfer of revenues from the Highway Users Tax
29 Account to cities pursuant to this section collected during the
30 months of January, February, and March 2009, shall be made with
31 the transfer of April 2009 revenues in May 2009.

32 (2) For the purpose of meeting the cash obligations associated
33 with ongoing budgeted costs, a city may make use of any cash
34 balance in the city account that is designated for the receipt of state
35 funds allocated for local streets and roads, including that resulting
36 from the receipt of funds pursuant to the Highway Safety, Traffic
37 Reduction, Air Quality, and Port Security Bond Act of 2006
38 (Chapter 12.49 (commencing with Section 8879.20) of Division
39 1 of Title 2 of the Government Code (bond act)) for local streets
40 and roads maintenance, during the period of this suspension, and

1 the use of this cash shall not be reflected as an expenditure of bond
2 act funds, if the cash is replaced once this suspension is repaid in
3 May 2009.

4 (3) This subdivision shall not affect any requirement that an
5 expenditure is required to be accrued and reflected from the
6 appropriate funding sources for which the moneys were received
7 and to meet all the requirements of those funding sources.

8 SEC. 42. Section 2192.4 is added to the Streets and Highways
9 Code, to read:

10 2192.4. The Trade Corridor Enhancement Account is hereby
11 created in the State Transportation Fund to receive funds from
12 subdivision (b) of Section 60050 of the Revenue and Taxation
13 Code, as adjusted. Funds in the account shall be available for
14 expenditure upon appropriation by the Legislature for
15 corridor-based freight projects nominated by local agencies and
16 the state.

17 SEC. 43. The Legislature finds and declares all of the
18 following:

19 (a) Californians know congestion. For decades, California has
20 been home to five or six of the nation's most congested travel
21 corridors, which are located in Los Angeles, the San
22 Francisco-Oakland-San Jose Bay Area, the Inland Empire, San
23 Diego, and increasingly, in the central valley. While congestion
24 is a vexing challenge in a state that is home to nearly 40 million
25 people and that adds nearly a half-million people each year, regions
26 and localities are finding new ways to address congestion in highly
27 traveled corridors by undertaking long-term, comprehensive, and
28 multimodal approaches that seek to reduce congestion by
29 expanding travel choices, improving the quality of life, and
30 preserving the local community character within the corridor.

31 (b) Examples of this more comprehensive approach to improving
32 congestion in highly traveled corridors include, but are not limited
33 to, programs in the following regions:

34 (1) The North Coast Corridor improvements along Route 5 and
35 the parallel rail corridor in the County of San Diego.

36 (2) The Route 91 and Metrolink rail corridor improvements in
37 the County of Riverside.

38 (3) Emerging solutions for the Route 101 and Caltrain corridor
39 connecting Silicon Valley with San Francisco.

1 (4) Multimodal approaches for the Route 101 and SMART rail
2 corridor between the Counties of Marin and Sonoma.

3 (5) Comprehensive solutions for the Route 405 Corridor in the
4 County of Los Angeles.

5 (c) The state recognizes the benefits to mobility, quality of life,
6 and the environment through comprehensive, multimodal proposals
7 that address mobility, community, and environmental challenges
8 along highly traveled corridors. Therefore, the Solutions for
9 Congested Corridors Program is being created to support
10 collaborative and comprehensive proposals to address these
11 challenges.

12 SEC. 44. Chapter 8.5 (commencing with Section 2390) is added
13 to Division 3 of the Streets and Highways Code, to read:

14
15 CHAPTER 8.5. CONGESTED CORRIDORS
16

17 2390. The Solutions for Congested Corridors Program is hereby
18 created.

19 2391. Pursuant to subdivision (b) of Section 11053 of the
20 Revenue and Taxation Code, two hundred fifty million dollars
21 (\$250,000,000) in the State Highway Account shall be available
22 for appropriation to the Department of Transportation in each
23 annual Budget Act for the Solutions for Congested Corridors
24 Program. Funds made available for the program shall be allocated
25 by the California Transportation Commission to projects designed
26 to achieve a balanced set of transportation, environmental, and
27 community access improvements within highly congested travel
28 corridors throughout the state. Funding shall be available for
29 projects that make specific performance improvements and are
30 part of a comprehensive corridor plan designed to reduce
31 congestion in highly traveled corridors by providing more
32 transportation choices for residents, commuters, and visitors to the
33 area of the corridor while preserving the character of the local
34 community and creating opportunities for neighborhood
35 enhancement projects. In order to mitigate increases in vehicle
36 miles traveled, greenhouse gases, and air pollution, highway lane
37 capacity-increasing projects funded by this program shall be limited
38 to high-occupancy vehicle lanes, managed lanes as defined in
39 Section 14106 of the Government Code, and other non-general
40 purpose lane improvements primarily designed to improve safety

1 for all modes of travel, such as auxiliary lanes, truck climbing
2 lanes, or dedicated bicycle lanes. Project elements within the
3 corridor plans may include improvements to state highways, local
4 streets and roads, public transit facilities, bicycle and pedestrian
5 facilities, and restoration or preservation work that protects critical
6 local habitat or open space.

7 2392. A regional transportation planning agency or county
8 transportation commission or authority responsible for preparing
9 a regional transportation improvement plan under Section 14527
10 of the Government Code or the department may nominate projects
11 for funding through the program that are consistent with the policy
12 objectives of the program as set forth in this chapter. The
13 commission shall allocate no more than one-half of the funds
14 available each year to projects nominated exclusively by the
15 department. Preference shall be given to corridor plans that
16 demonstrate that the plans and the specific project improvements
17 to be undertaken are the result of collaboration between the
18 department and local or regional partners that reflect a
19 comprehensive approach to addressing congestion and
20 quality-of-life issues within the affected corridor through
21 investment in transportation and related environmental solutions.
22 Collaboration between the partners may be demonstrated by a
23 project being jointly nominated by both the regional agency and
24 the department.

25 2393. A project nomination shall include documentation
26 regarding the quantitative and qualitative measures validating the
27 project's consistency with the policy objectives of the program as
28 set forth in this chapter. In addition to being included in a corridor
29 plan, a nominated project shall also be included in the region's
30 regional transportation plan. Projects within the boundaries of a
31 metropolitan planning organization must be included in an adopted
32 regional transportation plan that includes a sustainable communities
33 strategy determined by the State Air Resources Board to achieve
34 the region's greenhouse gas emissions reduction targets.

35 2394. The commission shall allocate program funds to projects
36 after reviewing the corridor plans submitted by the regional
37 agencies or the department and making a determination that a
38 proposed project is consistent with the objectives of the corridor
39 plan. In addition to making a consistency determination with

1 respect to project nominations, the commission shall score the
2 proposed projects on the following criteria:

- 3 (a) Safety.
- 4 (b) Congestion.
- 5 (c) Accessibility.
- 6 (d) Economic development and job creation and retention.
- 7 (e) Furtherance of state and federal ambient air standards and
8 greenhouse gas emissions reduction standards pursuant to the
9 California Global Warming Solutions Act of 2006 (Division 25.5
10 (commencing with Section 38550) of the Health and Safety Code)
11 and Senate Bill 375 (Chapter 728 of the Statutes of 2008).
- 12 (f) Efficient land use.
- 13 (g) Matching funds.
- 14 (h) Project deliverability.

15 2395. The commission shall adopt an initial program of projects
16 to be funded through the initial appropriation for the program. The
17 initial program may cover a multiyear programming period.
18 Subsequent programs of projects shall be adopted on a biennial
19 basis consistent with available funds for the program, and may
20 include updates to programs of projects previously adopted.

21 2396. The commission, in consultation with the State Air
22 Resources Board, shall develop and adopt guidelines for the
23 program consistent with the requirements of this chapter.
24 Guidelines adopted by the commission shall be exempt from the
25 Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code). Prior to adopting the guidelines, the commission shall
28 conduct at least one public hearing in northern California and one
29 public hearing in southern California to review and provide an
30 opportunity for public comment. The commission shall adopt the
31 final guidelines no sooner than 30 days after the commission
32 provides the proposed guidelines to the Joint Legislative Budget
33 Committee and the transportation policy committees in the Senate
34 and the Assembly.

35 2397. On or before March 1, 2019, and annually thereafter, the
36 commission shall provide project update reports on the
37 development and implementation of the program described in this
38 chapter in its annual report to the Legislature prepared pursuant
39 to Section 14535 of the Government Code. A copy of the report
40 shall be provided to the Joint Legislative Budget Committee and

1 the transportation policy committees of both houses of the
2 Legislature. The report, at a minimum, shall include information
3 on each project that received funding under the program, including,
4 but not limited to, all of the following:

5 (a) A summary describing the overall progress of the project
6 since the initial award.

7 (b) Expenditures to date for all project phase costs.

8 (c) A summary of milestones achieved during the prior year
9 and milestones expected to be reached in the coming year.

10 (d) An assessment of how the project is meeting the quantitative
11 and qualitative measurements identified in the project nomination,
12 as outlined in Section 2393.

13 SEC. 45. Section 4000.15 is added to the Vehicle Code, to
14 read:

15 4000.15. (a) Effective January 1, 2020, the department shall
16 confirm, prior to the initial registration or the transfer of ownership
17 and registration of a diesel-fueled vehicle with a gross vehicle
18 weight rating of more than 14,000 pounds, that the vehicle is
19 compliant with, or exempt from, applicable air pollution control
20 technology requirements pursuant to Division 26 (commencing
21 with Section 39000) of the Health and Safety Code and regulations
22 of the State Air Resources Board adopted pursuant to that division.

23 (b) Except as otherwise provided in subdivision (c), for
24 diesel-fueled vehicles subject to Section 43018 of the Health and
25 Safety Code, as applied to the reduction of emissions of diesel
26 particulate matter, oxides of nitrogen, and other criteria pollutants
27 from in-use diesel-fueled vehicles, and Section 2025 of Title 13
28 of the California Code of Regulations as it read January 1, 2017,
29 or as subsequently amended:

30 (1) The department shall refuse registration, or renewal or
31 transfer of registration, for a diesel-fueled vehicle with a gross
32 vehicle weight rating of 14,001 pounds to 26,000 pounds for the
33 following vehicle model years:

34 (A) Effective January 1, 2020, vehicle model years 2004 and
35 older.

36 (B) Effective January 1, 2021, vehicle model years 2007 and
37 older.

38 (C) Effective January 1, 2023, vehicle model years 2010 and
39 older.

1 (2) The department shall refuse registration, or renewal or
2 transfer of registration, for a diesel-fueled vehicle with a gross
3 vehicle weight rating of more than 26,000 pounds for the following
4 vehicle model years:

5 (A) Effective January 1, 2020, vehicle model years 2000 and
6 older.

7 (B) Effective January 1, 2021, vehicle model years 2005 and
8 older.

9 (C) Effective January 1, 2022, vehicle model years 2007 and
10 older.

11 (D) Effective January 1, 2023, vehicle model years 2010 and
12 older.

13 (c) (1) As determined by the State Air Resources Board,
14 notwithstanding effective dates and vehicle model years identified
15 in subdivision (b), the department may allow registration, or
16 renewal or transfer of registration, for a diesel-fueled vehicle that
17 has been reported to the State Air Resources Board, and is using
18 an approved exemption, or is compliant with applicable air
19 pollution control technology requirements pursuant to Division
20 26 (commencing with Section 39000) of the Health and Safety
21 Code and regulations of the State Air Resources Board adopted
22 pursuant to that division, including vehicles equipped with the
23 required model year emissions equivalent engine or otherwise
24 using an approved compliance option.

25 (2) The State Air Resources Board shall notify the department
26 of the vehicles allowed to be registered pursuant to this subdivision.

27 SEC. 46. Section 4156 of the Vehicle Code is amended to read:

28 4156. (a) Notwithstanding any other provision of this code,
29 and except as provided in subdivision (b), the department in its
30 discretion may issue a temporary permit to operate a vehicle when
31 a payment of fees has been accepted in an amount to be determined
32 by, and paid to the department, by the owner or other person in
33 lawful possession of the vehicle. The permit shall be subject to the
34 terms and conditions, and shall be valid for the period of time, that
35 the department shall deem appropriate under the circumstances.

36 (b) (1) The department shall not issue a temporary permit
37 pursuant to subdivision (a) to operate a vehicle for which a
38 certificate of compliance is required pursuant to Section 4000.3,
39 and for which that certificate of compliance has not been issued,
40 unless the department is presented with sufficient evidence, as

1 determined by the department, that the vehicle has failed its most
2 recent smog check inspection.

3 (2) Only one temporary permit may be issued pursuant to this
4 subdivision to a vehicle owner in a two-year period.

5 (3) A temporary permit issued pursuant to paragraph (1) is valid
6 for either 60 days after the expiration of the registration of the
7 vehicle or 60 days after the date that vehicle is removed from
8 nonoperation, whichever is applicable at the time that the temporary
9 permit is issued.

10 (4) A temporary permit issued pursuant to paragraph (1) is
11 subject to Section 9257.5.

12 (c) (1) The department may issue a temporary permit pursuant
13 to subdivision (a) to operate a vehicle for which registration may
14 be refused pursuant to Section 4000.15.

15 (2) Only one temporary permit may be issued pursuant to this
16 subdivision for any vehicle, unless otherwise approved by the State
17 Air Resources Board.

18 (3) A temporary permit issued pursuant to paragraph (1) is valid
19 for either 90 days after the expiration of the registration of the
20 vehicle or 90 days after the date that vehicle is removed from
21 nonoperation, whichever is applicable at the time the temporary
22 permit is issued.

23 (4) A temporary permit issued pursuant to paragraph (1) is
24 subject to Section 9257.5.

25 SEC. 47. Section 9250.6 is added to the Vehicle Code, to read:

26 9250.6. (a) In addition to any other fees specified in this code,
27 or the Revenue and Taxation Code, commencing July 1, 2020, a
28 road improvement fee of one hundred dollars (\$100) shall be paid
29 to the department for registration or renewal of registration of
30 every zero-emission motor vehicle model year 2020 and later
31 subject to registration under this code, except those motor vehicles
32 that are expressly exempted under this code from payment of
33 registration fees.

34 (b) On January 1, 2021, and every January 1 thereafter, the
35 Department of Motor Vehicles shall adjust the road improvement
36 fee imposed under subdivision (a) by increasing the fee in an
37 amount equal to the increase in the California Consumer Price
38 Index for the prior year, except the first adjustment shall cover the
39 prior six months, as calculated by the Department of Finance, with
40 amounts equal to or greater than fifty cents (\$0.50) rounded to the

1 highest whole dollar. The incremental change shall be added to
2 the associated fee rate for that year.

3 (c) Any changes to the road improvement fee imposed by
4 subdivision (a) that are enacted by legislation subsequent to July
5 1, 2017, shall be deemed to be changes to the base fee rate for
6 purposes of the California Consumer Price Index calculation and
7 adjustment performed pursuant to subdivision (b).

8 (d) Revenues from the road improvement fee, after deduction
9 of the department's administrative costs related to this section,
10 shall be deposited in the Road Maintenance and Rehabilitation
11 Account created pursuant to Section 2031 of the Streets and
12 Highways Code.

13 (e) This section does not apply to a commercial motor vehicle
14 subject to Section 9400.1.

15 (f) The road improvement fee required pursuant to this section
16 does not apply to the initial registration after the purchase of a new
17 zero-emission motor vehicle.

18 (g) For purposes of this section, "zero-emission motor vehicle"
19 means a motor vehicle as described in subdivision (d) of Section
20 44258 of the Health and Safety Code, or any other motor vehicle
21 that is able to operate on any fuel other than gasoline or diesel fuel.

22 SEC. 48. (a) On or before January 1, 2019, the Institute for
23 Transportation Studies at the University of California, Davis is
24 requested to prepare and submit to the Governor and the Legislature
25 a report that makes recommendations on potential methodologies
26 to raise revenue from zero-emission and low-emission vehicle
27 owners to achieve the state's transportation electrification, clean
28 air, and climate targets established under law while also ensuring
29 those vehicle owners pay their fair share of any costs borne by
30 motorists to fund improvements to the transportation system.

31 (b) The report shall examine all fees, taxes, and incentives for
32 zero- and low-emission vehicles, and other vehicles, and shall
33 make recommendations for options that ensure the purchase and
34 ownership of zero- and low-emission vehicles are properly
35 incentivized to assist in meeting state clean air and climate targets,
36 while also ensuring appropriate levels of funding for roads and
37 transportation.

38 (c) The study shall assess annual fees on zero-emission vehicles
39 or other vehicles not otherwise subject to state fuel excise or use
40 taxes and compare that to the average annual state fuel excise tax

1 assessed on gasoline or diesel vehicles with equivalent fuel
2 economy.

3 (d) The Institute shall consult with the State Air Resources
4 Board, the Department of Transportation, the Department of Motor
5 Vehicles, and the State Board of Equalization in preparing the
6 report.

7 (e) This report shall be submitted in compliance with Section
8 9795 of the Government Code.

9 SEC. 49. Guidelines adopted to implement transportation
10 programs in this act by the California Transportation Commission,
11 the Department of Transportation, the Transportation Agency, or
12 any other state agency shall be exempt from the Administrative
13 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
14 Part 1 of Division 3 of Title 2 of the Government Code).

15 SEC. 50. This act is an urgency statute necessary for the
16 immediate preservation of the public peace, health, or safety within
17 the meaning of Article IV of the Constitution and shall go into
18 immediate effect. The facts constituting the necessity are:

19 In order to provide additional funding for road maintenance and
20 rehabilitation purposes as quickly as possible, it is necessary for
21 this act to take effect immediately.

AMENDED IN SENATE APRIL 17, 2017

AMENDED IN SENATE MARCH 27, 2017

AMENDED IN SENATE MARCH 20, 2017

SENATE BILL

No. 65

Introduced by Senator Hill

(Principal coauthor: Assembly Member Low)

December 29, 2016

An act to amend Sections 13388, 13557, 23136, 23220, and 23221 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 65, as amended, Hill. Vehicles: alcohol and marijuana: penalties.

Existing law makes it an infraction to drink any alcoholic beverage while driving a motor vehicle upon any highway or on other specified lands. Existing law also prohibits a driver or passenger from drinking any alcoholic beverage while in a motor vehicle upon a highway, and makes a violation of this provision punishable as an infraction.

This bill would instead make drinking an alcoholic beverage or smoking or ingesting marijuana or any marijuana product while driving, or while riding as a passenger in, a motor vehicle being driven upon a highway or upon specified lands punishable as ~~either an infraction or a misdemeanor~~ *an infraction*. The bill would authorize a court to order a defendant to attend and complete a state-licensed driving-under-the-influence program in addition to those penalties.

Existing law provides that a person under 21 years of age who has a blood alcohol concentration of 0.01% or more while operating a motor vehicle shall have his or her driver's license suspended by the department for no less than one year. Existing law provides the

procedure for the arresting officer, acting on behalf of the Department of Motor Vehicles, to serve a notice of order of suspension, seize the person's license, and issue a temporary license.

This bill would provide that a person under 21 years of age who has any detectible—~~amount~~ *quantity, as defined*, of delta-9-tetrahydrocannabinol in his or her body would be subject to the same license suspension, except as specified. The bill would make other conforming changes.

By expanding the scope of and penalties for existing crimes and by increasing the administrative duties of local peace officers, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13388 of the Vehicle Code is amended
2 to read:
3 13388. (a) If a peace officer lawfully detains a person under
4 21 years of age who is driving a motor vehicle, and the officer has
5 reasonable cause to believe that the person is in violation of Section
6 23136, the officer shall request that the person take a preliminary
7 alcohol screening test to determine the presence of alcohol in the
8 person, or a chemical field test to determine the presence of
9 delta-9-tetrahydrocannabinol in the person, if a preliminary alcohol
10 screening test device or chemical field test is immediately available.
11 If a preliminary alcohol screening test device or chemical field
12 test is not immediately available, the officer may request the person
13 to submit to chemical testing of his or her blood, breath, or urine,
14 conducted pursuant to Section 23612.

(b) (1) If any of the following occurs, the officer shall proceed as specified in paragraph (2):

(A) The person refuses to take, or fails to complete, the preliminary alcohol screening test or chemical field test, or refuses to take or fails to complete a chemical test if a preliminary alcohol device or chemical field test is not immediately available.

(B) The person takes the preliminary alcohol screening test and that test reveals a blood-alcohol concentration of 0.01 percent or greater, or if the results of a chemical test reveal a blood-alcohol concentration of 0.01 percent or greater.

(C) The chemical field test or the results of the chemical test reveal any detectible quantity of delta-9-tetrahydrocannabinol in the person.

(2) (A) The officer, acting on behalf of the department, shall serve the person with a notice of an order of suspension of the person's driving privilege.

(B) The officer shall take possession of any driver's license issued by this state which is held by the person. When the officer takes possession of a valid driver's license, the officer shall issue, on behalf of the department, a temporary driver's license. The temporary driver's license shall be an endorsement on the notice of the order of suspension and shall be valid for 30 days from the date of issuance, or until receipt of the order of suspension from the department, whichever occurs first.

(C) The officer immediately shall forward a copy of the completed notice of order of suspension form, and any driver's license taken into possession under subparagraph (B), with the report required by Section 13380, to the department. For the purposes of this paragraph, "immediately" means on or before the end of the fifth ordinary business day after the notice of order of suspension was served.

(c) For the purposes of this section, the following definitions apply:

(1) "Preliminary alcohol screening test device" means an instrument designed and used to measure the presence of alcohol in a person based on a breath sample.

(2) "Chemical field test" means a chemical test, including an oral swab saliva test, that is designed to be used in the field and indicates, without laboratory testing, the presence of delta-9-tetrahydrocannabinol in the body of the test subject.

1 (3) “Detectable quantity” means a blood plasma concentration
2 of delta-9-tetrahydrocannabinol of five nanograms per milliliter
3 or higher as indicated by a chemical test, or a positive indication
4 on a binary chemical field test that has a detection threshold of
5 not less than five nanograms per milliliter.

6 SEC. 2. Section 13557 of the Vehicle Code is amended to read:

7 13557. (a) The department shall review the determination
8 made pursuant to Section 13353, 13353.1, or 13353.2 relating to
9 a person who has received a notice of an order of suspension or
10 revocation of the person’s privilege to operate a motor vehicle
11 pursuant to Section 13353, 13353.1, 13353.2, 13382, or 23612,.
12 The department shall consider the sworn report submitted by the
13 peace officer pursuant to Section 23612 or 13380 and any other
14 evidence accompanying the report.

15 (b) (1) If the department determines in the review of a
16 determination made under Section 13353 or 13353.1, by a
17 preponderance of the evidence, all of the following facts, the
18 department shall sustain the order of suspension or revocation:

19 (A) The peace officer had reasonable cause to believe that the
20 person had been driving a motor vehicle in violation of Section
21 23136, 23140, 23152, 23153, or 23154.

22 (B) The person was placed under arrest or, if the alleged
23 violation was of Section 23136, that the person was lawfully
24 detained.

25 (C) The person refused or failed to complete the chemical test
26 or tests after being requested by a peace officer.

27 (D) Except for the persons described in Section 23612 who are
28 incapable of refusing, the person had been told that his or her
29 privilege to operate a motor vehicle would be suspended or revoked
30 if he or she refused to submit to, and complete, the required testing.

31 (2) If the department determines, by a preponderance of the
32 evidence, that any of the facts required under paragraph (1) were
33 not proven, the department shall rescind the order of suspension
34 or revocation and, if the person is otherwise eligible, return or
35 reissue the person’s driver’s license pursuant to Section 13551.
36 The determination of the department upon administrative review
37 is final unless a hearing is requested pursuant to Section 13558.

38 (3) If the department determines in the review of a determination
39 made under Section 13353.2, by the preponderance of the evidence,
40 all of the following facts, the department shall sustain the order of

1 suspension or revocation, or if the person is under 21 years of age
2 and does not yet have a driver's license, the department shall delay
3 issuance of that license for one year:

4 (A) The peace officer had reasonable cause to believe that the
5 person had been driving a motor vehicle in violation of Section
6 23136, 23140, 23152, 23153, or 23154.

7 (B) The person was placed under arrest or, if the alleged
8 violation was of Section 23136, the person was lawfully detained.

9 (C) The person was driving a motor vehicle under any of the
10 following circumstances:

11 (i) When the person had 0.08 percent or more, by weight, of
12 alcohol in his or her blood.

13 (ii) When the person was under 21 years of age and had 0.05
14 percent or more, by weight, of alcohol in his or her blood.

15 (iii) When the person was under 21 years of age and had a
16 blood-alcohol concentration of 0.01 percent or greater, as measured
17 by a preliminary alcohol screening test, or other chemical test.

18 (iv) When the person was under 21 years of age and had any
19 detectible quantity of delta-9-tetrahydrocannabinol in his or her
20 body, as measured by a chemical field test or chemical laboratory
21 test: *determined pursuant to Section 13338.*

22 (v) When the person was driving a vehicle that requires a
23 commercial driver's license and the person had 0.04 percent or
24 more, by weight, of alcohol in his or her blood.

25 (vi) When the person was on probation for a violation of Section
26 23152 or 23153 and had a blood-alcohol concentration of 0.01
27 percent or greater, as measured by a preliminary alcohol screening
28 test or other chemical test.

29 (4) If the department determines that any of those facts required
30 under paragraph (3) were not proven by the preponderance of the
31 evidence, the department shall rescind the order of suspension or
32 revocation and, if the person is otherwise eligible, return or reissue
33 the person's driver's license pursuant to Section 13551. For persons
34 under 21 years of age, the determination of the department pursuant
35 to paragraph (3) is final unless a hearing is requested within 10
36 days of the determination, which hearing shall be conducted
37 according to Section 13558. For persons over 21 years of age, the
38 determination of the department upon administrative review is
39 final unless a hearing is requested pursuant to Section 13558.

1 (c) The department shall make the determination upon
2 administrative review before the effective date of the order of
3 suspension or revocation.

4 (d) The administrative review does not stay the suspension or
5 revocation of a person's privilege to operate a motor vehicle. If
6 the department is unable to make a determination on administrative
7 review within the time limit in subdivision (c), the department
8 shall stay the effective date of the order of suspension or revocation
9 pending the determination and, if the person's driver's license has
10 been taken by the peace officer pursuant to Section 13382, 13388,
11 13389, or 23612, the department shall notify the person before the
12 expiration date of the temporary permit issued pursuant to Section
13 13382, 13388, 13389, or 23612, or the expiration date of any
14 previous extension issued pursuant to this subdivision, in a form
15 that permits the person to establish to any peace officer that his or
16 her privilege to operate a motor vehicle is not suspended or
17 revoked.

18 (e) A person may request and be granted a hearing pursuant to
19 Section 13558 without first receiving the results of an
20 administrative review pursuant to this section. After receiving a
21 request for a hearing, the department is not required to conduct an
22 administrative review of the same matter pursuant to this section.

23 (f) A determination of facts by the department under this section
24 has no collateral estoppel effect on a subsequent criminal
25 prosecution and does not preclude litigation of those same facts
26 in the criminal proceeding.

27 SEC. 3. Section 23136 of the Vehicle Code is amended to read:

28 23136. (a) Notwithstanding Sections 23152 and 23153, it is
29 unlawful for a person under 21 years of age who has a
30 blood-alcohol concentration of 0.01 percent or greater, as measured
31 by a preliminary alcohol screening test or other chemical test, or
32 any detectable quantity of delta-9-tetrahydrocannabinol in his or
33 her body, as measured by an oral swab saliva test or other chemical
34 field test, to drive a vehicle. However, this section shall not be a
35 bar to prosecution under Section 23152 or 23153 or any other law.

36 (b) A person shall be found to be in violation of subdivision (a)
37 if the person was, at the time of driving, under 21 years of age,
38 and the trier of fact finds that the person had consumed an alcoholic
39 beverage or smoked or ingested marijuana or marijuana products
40 and was driving a vehicle with a blood-alcohol concentration of

1 0.01 percent or greater, as measured by a preliminary alcohol
2 screening test or other chemical test, or any detectible quantity of
3 delta-9-tetrahydrocannabinol in his or her body, as measured by
4 a chemical field test or other chemical test.

5 (c) (1) Any person under 21 years of age who drives a motor
6 vehicle is deemed to have given his or her consent to a preliminary
7 alcohol screening test, chemical field test, or other chemical test
8 for the purpose of determining the presence of alcohol or
9 delta-9-tetrahydrocannabinol in the person, if lawfully detained
10 for an alleged violation of subdivision (a).

11 (2) The testing shall be incidental to a lawful detention and
12 administered at the direction of a peace officer having reasonable
13 cause to believe the person was driving a motor vehicle in violation
14 of subdivision (a).

15 (3) The person shall be told that his or her failure to submit to,
16 or the failure to complete, a preliminary alcohol screening test,
17 chemical field test, or other chemical test as requested will result
18 in the suspension or revocation of the person's privilege to operate
19 a motor vehicle for a period of one year to three years, as provided
20 in Section 13353.1.

21 (d) The prohibition in subdivision (a) relating to
22 delta-9-tetrahydrocannabinol shall not apply to a person under 21
23 years of age who has in his or her possession a physician's
24 recommendation for medical cannabis that complies with Article
25 25 (commencing with Section 2525) of Chapter 5 of Division 2
26 of the Business and Professions Code or an identification card
27 issued pursuant to Section 11362.71 of the Health and Safety Code.

28 (e) *As used in this section, "detectible quantity" means a blood*
29 *plasma concentration of delta-9-tetrahydrocannabinol of five*
30 *nanograms per milliliter or higher as indicated by a chemical test,*
31 *or a positive indication on a binary chemical field test that has a*
32 *detection threshold of not less than five nanograms per milliliter.*

33 SEC. 4. Section 23220 of the Vehicle Code is amended to read:

34 23220. (a) A person shall not drink any alcoholic beverage or
35 smoke or ingest marijuana or any marijuana product while driving
36 a motor vehicle on any lands described in subdivision (c).

37 (b) A person shall not drink any alcoholic beverage or smoke
38 or ingest marijuana or any marijuana product while riding as a
39 passenger in any motor vehicle being driven on any lands described
40 in subdivision (c).

(c) As used in this section, “lands” means those lands to which the Chappie-Z’berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

(d) (1) A violation of subdivision (a) or (b) ~~may be punished as an infraction or a misdemeanor.~~ *shall be punished as an infraction.*

~~(2) The court may order a defendant convicted of a misdemeanor and sentenced to a term of imprisonment in a county jail to be imprisoned on days other than days of regular employment for the defendant, as determined by the court.~~

(e) In addition to the penalties specified in this section, the court may, in its discretion, order the defendant to attend and complete a state-licensed driving-under-the influence program.

SEC. 5. Section 23221 of the Vehicle Code is amended to read:

23221. (a) A driver shall not drink any alcoholic beverage or smoke or ingest marijuana or any marijuana product while driving a motor vehicle upon a highway.

(b) A passenger shall not drink any alcoholic beverage or smoke or ingest marijuana or any marijuana product while in a motor vehicle being driven upon a highway.

(c) A violation of this section ~~may be punished as an infraction or a misdemeanor.~~ *shall be punished as an infraction.*

~~(d) The court may order a defendant convicted of a misdemeanor and sentenced to a term of imprisonment in a county jail to be imprisoned on days other than days of regular employment for the defendant, as determined by the court.~~

~~(e)~~

(d) In addition to the penalties specified in this section, the court may, in its discretion, order the defendant to attend and complete a state-licensed driving-under-the-influence program.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O

Introduced by Senator Allen

February 7, 2017

An act to amend Sections 5090.10, 5090.11, 5090.15, 5090.24, 5090.30, 5090.31, 5090.32, 5090.34, 5090.35, 5090.43, 5090.60, 5090.61, and 5090.70 of, and to add Sections 5090.13, 5090.14, and 5090.39 to, the Public Resources Code, to amend Section 8352.6 of the Revenue and Taxation Code, and to amend Section 38225 of the Vehicle Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as introduced, Allen. Off-highway motor vehicle recreation.

(1) The Off-Highway Motor Vehicle Recreation Act of 2003 creates the Division of Off-Highway Motor Vehicle Recreation within the Department of Parks and Recreation. The act gives the division certain duties and responsibilities, including the planning, acquisition, development, conservation, and restoration of lands in state vehicular recreation areas. Existing law requires the division to develop and implement a grant and cooperative agreement program with other agencies funded from no more than $\frac{1}{2}$ of the revenues in the Off-Highway Vehicle Trust Fund, with specified percentages of these revenues to be available, upon appropriation, for various purposes related to off-highway vehicles. Existing law requires the remaining revenues in the Off-Highway Vehicle Trust Fund to be available for the support of the division and for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in state vehicular recreation areas and certain other areas. The act is repealed on January 1, 2018.

This bill would revise and recast various provisions of the act. The bill would expand the duties of the division by requiring it to, among other things, (1) prepare program and strategic planning reports regarding units of the state park system, as specified, (2) post on the department's Internet Web site all plans, reports, and studies developed pursuant to the act's provisions, as specified, (3) in consultation with specified bodies and departments, update the 2008 Soil Conservation Guidelines and Standards to establish a generic and measurable soil conservation standard by December 31, 2020, and update that standard every 5 years thereafter, (4) implement a monitoring program, as defined, to monitor the condition of soils, wildlife, and vegetation habitats in each state vehicular recreation area each year, as specified, and (5) identify and protect sensitive natural, cultural, and archaeological resources within state vehicular recreations areas as natural and cultural preserves closed to off-highway vehicle recreation use. The bill would require the division to take other specified measures to protect natural and cultural preserves within state vehicular recreation areas, including measures to mitigate harmful impacts to these areas and to protect them from off-highway vehicle recreation use, as specified. The bill would require the Director of Parks and Recreation to assemble a science advisory team to advise and assist the department and the division in meeting the natural and cultural resource conservation purposes of the act, as specified. The bill would also prohibit any expansion of an existing, or development of any new, state vehicular recreation area or allocation of grant program funds for new or expanded units of the system until the science advisory team completes its review and submits its recommendations to the department, and the department implements the recommendations. The bill would change the repeal date for the act to January 1, 2023, thereby extending the act's provisions until that date.

(2) Existing law, until January 1, 2018, creates the Off-Highway Vehicle Trust Fund. Existing law provides for deposit of various revenues in the fund, including a portion of gasoline excise tax revenues attributable to off-highway vehicle use and \$33 in annual special charges imposed, until January 1, 2018, on off-highway motor vehicles subject to identification, which charges are collected by the Department of Motor Vehicles. Existing law, until January 1, 2018, requires the moneys in the trust fund to be used for the Off-Highway Motor Vehicle Recreation Program. Existing law, until January 1, 2018, also requires an annual service fee of \$7 to be paid to the Department of Motor

Vehicles for deposit in the Motor Vehicle Account for the issuance or renewal of identification of off-highway motor vehicles.

This bill would extend the Off-Highway Vehicle Trust Fund until January 1, 2023, and would also similarly extend the \$33 annual special charge and the \$7 identification fee.

(3) Existing law requires any money temporarily transferred from the Off-Highway Vehicle Trust Fund to the General Fund to be reimbursed, without interest, within 2 fiscal years of the transfer.

This bill would delete this provision.

(4) Existing law imposes an excise tax on gasoline. Existing law requires a portion of the moneys attributable to the excise tax on gasoline related to specified off-highway motor vehicles and off-highway vehicle activities to be transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund. Existing law requires the amount of money transferred to be based upon the percentage of total fuel tax revenues transferred for this purpose in the 2006–07 fiscal year, but authorizes the Department of Transportation, in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles, to adjust the amount transferred every 5 years, beginning in the 2013–14 fiscal year. Existing law specifies the factors to be considered in making an adjustment from the 2006–07 fiscal year baseline, including the number of off-highway vehicles paying identification fees, the number of registered street-legal vehicles anticipated to be used off highway, attendance at state vehicular recreation areas, and off-highway recreation use on federal lands.

This bill would revise the method of calculating the gasoline excise taxes attributable to off-highway vehicle use. The bill would require an estimate to be made every 5 years of gasoline excise tax revenue paid by motor vehicles when actually used off highway for motorized recreation and by motor vehicles when actually used off highway to access nonmotorized recreation. The bill would delete the use of factors based on vehicle populations and attendance at state vehicular recreation areas. The bill would delete the reference to the 2006–07 fiscal year baseline.

This bill would initially require these fuel taxes to be transferred to the State Parks and Recreation Fund. The bill would require the Director of the Department of Parks and Recreation, in consultation with the State Park and Recreation Commission, to include, in the annual budget submitted by the Governor to the Legislature, a proposed allocation of fuel taxes for the purposes of the department, including support for state

parks and the Off-Highway Motor Vehicle Recreation Program. The bill, upon enactment of the Budget Act, would require the portion of fuel tax revenues allocated by the Budget Act for purposes of the Off-Highway Motor Vehicle Recreation Program to be transferred to the Off-Highway Vehicle Trust Fund. The bill would make statements of legislative intent in this regard.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5090.10 of the Public Resources Code
2 is amended to read:

3 5090.10. “Conservation”—~~means~~ and “conserve” mean
4 activities, practices, and programs that *protect and* sustain soils,
5 plants, wildlife, ~~and their habitat~~ *habitats, and cultural resources*
6 in accordance with the standards adopted pursuant to Section
7 5090.35.

8 SEC. 2. Section 5090.11 of the Public Resources Code is
9 amended to read:

10 5090.11. “Restoration”—~~means~~, and “restore” mean, upon
11 closure of the unit or any portion thereof, the restoration of land
12 to the contours, the plant communities, and the plant covers
13 comparable to those on surrounding lands or at least those that
14 existed prior to off-highway motor vehicle use.

15 SEC. 3. Section 5090.13 is added to the Public Resources Code,
16 to read:

17 5090.13. “Monitoring program” means a program adopted by
18 the department that provides periodic evaluations of monitoring
19 results to assess the adequacy of conservation and restoration
20 actions to inform adaptive management strategies. A monitoring
21 program includes, but is not limited to, all of the following at each
22 individual system unit:

23 (a) Surveys to determine the status of natural and cultural
24 resources.

25 (b) Periodic assessments of the effectiveness of protection and
26 restoration measures currently in place.

1 (c) Progress reports on the implementation of conservation and
2 restoration measures, the designation and management of cultural
3 and natural preserves, and alternative management strategies.

4 (d) A schedule for conducting monitoring activities.

5 SEC. 4. Section 5090.14 is added to the Public Resources Code,
6 to read:

7 5090.14. "Adaptive management" means to use the results of
8 information gathered through a monitoring program or scientific
9 research and regulatory standards to adjust management strategies
10 and practices at individual system units to ensure conservation and
11 protection of natural and cultural resources.

12 SEC. 5. Section 5090.15 of the Public Resources Code is
13 amended to read:

14 5090.15. (a) There is in the department the Off-Highway Motor
15 Vehicle Recreation Commission, consisting of nine members, five
16 of whom shall be appointed by the Governor and subject to Senate
17 confirmation, two of whom shall be appointed by the Senate
18 Committee on Rules, and two of whom shall be appointed by the
19 Speaker of the Assembly.

20 (b) ~~In order to be~~ *Persons* appointed to the commission, a
21 ~~nominee shall represent one or more of the following groups:~~
22 ~~commission shall have expertise, or work or volunteer experience,~~
23 ~~or both, in one or more of the following areas:~~

24 (1) ~~Off-highway vehicle recreation interests.~~ *recreation.*

25 (2) ~~Biological or soil scientists.~~ *sciences.*

26 (3) ~~Groups or associations of predominantly rural landowners.~~

27 (3) *The legal and practical aspects of rural landownership and*
28 *management.*

29 (4) Law enforcement.

30 (5) ~~Environmental protection organizations.~~ *and cultural*
31 *resource protection.*

32 (6) ~~Nonmotorized recreation interests.~~ *outdoors recreation.*

33 ~~It~~

34 (c) *It* is the intent of the Legislature that appointees to the
35 commission represent all of the ~~groups~~ *primary qualifications*
36 *delineated in paragraphs (1) to (6), (6) of subdivision (b), inclusive,*
37 *to the extent possible; possible, at all times and that no more than*
38 *two commissioners may serve under the same qualification at any*
39 *time.*

~~(e) Whenever a reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the state vehicular recreation areas, as established by this chapter, it is a reference to, and means, the Off-Highway Motor Vehicle Recreation Commission.~~

SEC. 6. Section 5090.24 of the Public Resources Code is amended to read:

5090.24. The commission has the following ~~particular~~ duties and responsibilities:

(a) Be fully informed regarding all governmental activities affecting the program.

~~(b) Meet at least four times per year periodically at various locations throughout the state to receive comments on the implementation of the program. Establish an annual calendar of proposed meetings at the beginning of each calendar year. The meetings shall include a public meeting, before the beginning of each grant program cycle, to collect public input concerning the program, recommendations for program improvements, and specific project needs for the system.~~

~~(c) Hold a public hearing to receive~~ Receive public comment regarding any proposed substantial acquisition or development project at a location in close geographic proximity to the project, ~~unless a hearing consistent with federal law or regulation has already been held regarding the project.~~ project.

(d) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any ~~alleged~~ adverse impacts occurring on that person's property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the prevention of any adverse impact determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.

(e) Review and comment annually to the director on the proposed budget of expenditures from the fund.

(f) Review *and comment on* all plans for new and expanded local and regional vehicle recreation areas that have applied for grant funds.

(g) Review and comment on ~~the strategic plan~~ plans periodically developed by the ~~division pursuant to Section 5090.32.~~ division.

~~(h) Prepare and submit a program report to the Governor, the Assembly Water, Parks, and Wildlife Committee, the Senate Committee on Natural Resources and Water, and the Committee on Appropriations of each house on or before January 1, 2011, and every three years thereafter. The report shall be adopted by the commission after discussing the contents during two or more public meetings. The report shall address the status of the program and off-highway motor vehicle recreation, including all of the following:~~

~~(1) The results of the strategic planning process completed pursuant to subdivision (l) of Section 5090.32.~~

~~(2) The condition of natural and cultural resources of areas and trails receiving state off-highway motor vehicle funds and the resolution of conflicts of use in those areas and trails.~~

~~(3) The status and accomplishments of funds appropriated for restoration pursuant to paragraph (2) of subdivision (b) of Section 5090.50.~~

~~(4) A summary of resource monitoring data compiled and restoration work completed.~~

~~(5) Actions taken by the division and department since the last program report to discourage and decrease trespass of off-highway motor vehicles on private property.~~

~~(6) Other relevant program-related environmental issues that have arisen since the last program report.~~

~~(h) Make other recommendations to the deputy director regarding the off-highway motor vehicle recreation program.~~

SEC. 7. Section 5090.30 of the Public Resources Code is amended to read:

5090.30. There is in the department the Division of Off-Highway Motor Vehicle Recreation. Whenever any reference is made to the Office of Off-Highway Motor Vehicle Recreation, it shall be deemed to be a reference to, and to mean, the division. ~~Section 507.1 does not apply to the division.~~

SEC. 8. Section 5090.31 of the Public Resources Code is amended to read:

5090.31. The division shall be under the direction of a deputy director appointed by the director. ~~The deputy director shall have no responsibilities other than directing and managing the division and the program.~~ *director. The deputy director shall be part of the department's management team.*

SEC. 9. Section 5090.32 of the Public Resources Code is amended to read:

5090.32. ~~The~~ *Under the general direction of the department, the division has the following duties and responsibilities:*

(a) Planning, acquisition, development, conservation, and restoration of lands in the state vehicular recreation areas.

(b) Direct management, maintenance, administration, and operation of lands in the state vehicular recreation areas.

(c) Provide for law enforcement and appropriate public safety activities.

(d) Implementation of all aspects of the program.

(e) Ensure program compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) in state vehicular recreation areas.

(f) Provide staff assistance to the commission.

(g) ~~Prepare and implement~~ *Prepare, implement, and periodically update* plans for lands in, or proposed to be included in, state vehicular recreation areas, including new state vehicular recreation areas. However, a plan ~~shall need~~ *need not be prepared or updated* in any instance specified in subdivision (c) of Section ~~5002.2~~ *5002.2, except for unauthorized or otherwise unintended off-highway trails or expansion areas, which shall not be considered an existing facility or use under this section.*

(h) Conduct, or cause to be conducted, surveys, and prepare, or cause to be prepared, studies that are necessary or desirable for implementing the program.

(i) Recruit and utilize volunteers to further the objectives of the program.

(j) Prepare and coordinate safety and education programs.

(k) Provide for the enforcement of Division 16.5 (commencing with Section 38000) of the Vehicle Code and other laws regulating the use or equipment of off-highway motor vehicles in all areas acquired, maintained, or operated by funds from the fund; however, the Department of the California Highway Patrol shall have responsibility for enforcement on highways.

~~(l) Complete by January 1, 2009, a strategic planning process that will identify future off-highway motor vehicle recreational needs, including, but not limited to, potential off-highway motor vehicle parks in urban areas to properly direct vehicle operators away from illegal or environmentally sensitive areas. This strategic~~

1 ~~planning process shall take into consideration, at a minimum,~~
2 ~~environmental constraints, infrastructure requirements,~~
3 ~~demographic limitations, and local, state, and federal land use~~
4 ~~planning processes. The strategic plan shall be reviewed by the~~
5 ~~commission and updated periodically.~~

6 *(l) Ensure protection of natural and cultural resources,*
7 *including by setting unit capacity limits pursuant to Sections*
8 *5001.96 and 5019.5.*

9 *(m) Prepare program and strategic planning reports, including*
10 *annually reporting the number and type of injuries and accidents*
11 *and the number and type of citations and other enforcement actions*
12 *taken at system units, disaggregated by individual unit.*

13 *(n) Post on the department's Internet Web site all plans, reports,*
14 *and studies developed pursuant to this chapter, including those*
15 *regarding conservation, restoration, monitoring, and adaptive*
16 *management of system units, disaggregated by individual unit.*

17 *(o) Complete other duties as determined by the director.*

18 SEC. 10. Section 5090.34 of the Public Resources Code is
19 amended to read:

20 5090.34. (a) In cooperation with the commission, the division
21 shall make available on the division's Internet Web site information
22 regarding off-highway motor vehicle recreation opportunities,
23 pertinent laws and regulations, and responsible use of the system.
24 At a minimum, the Web site shall include the following:

25 (1) The text of laws and regulations relating to the program and
26 operation of off-highway vehicles.

27 (2) A statewide map and regional maps of federal, state, and
28 local off-highway vehicle recreation areas and facilities in the
29 state, including links to maps of federal off-highway vehicle routes
30 resulting from the route designation process.

31 (3) Information concerning safety, education, and trail etiquette.

32 (4) Information to prevent trespass, damage to public and private
33 property, and damage to natural resources, including penalties and
34 liability associated with trespass and damage caused.

35 (b) The division shall ~~create~~ *create, and make available for*
36 *distribution*, a guidebook of federal, state, and local off-highway
37 vehicle recreation opportunities that includes contact information
38 where current specific maps and information for each facility can
39 be located. Contact information may include *Internet* Web site
40 addresses, telephone numbers, and addresses of offices where maps

1 can be accessed. The guidebook shall also include the address of
2 the *Internet* Web site where the information in subdivision (a) may
3 be found.

4 ~~(e) The division shall work with retailers of off-highway motor~~
5 ~~vehicles and off-highway recreation associations to distribute the~~
6 ~~guidebook developed under subdivision (b) and to increase~~
7 ~~awareness of the resources available on the division's Internet~~
8 ~~Web site.~~

9 SEC. 11. Section 5090.35 of the Public Resources Code is
10 amended to read:

11 5090.35. (a) The protection of public safety, the appropriate
12 utilization of lands, and the conservation of ~~land~~ *natural and*
13 *cultural* resources are of the highest priority in the management
14 of the state vehicular recreation ~~areas; and, accordingly, areas.~~
15 *Accordingly, the division shall promptly repair and continuously*
16 *maintain areas and trails, anticipate and prevent accelerated and*
17 *unnatural erosion, and restore lands damaged by erosion to the*
18 *extent possible; take steps necessary to prevent damage to natural*
19 *and cultural resources in these areas. When damage occurs in a*
20 *state vehicular recreation area that is inconsistent with natural*
21 *and cultural resources protection plans, the division shall promptly*
22 *close the area. That area shall remain closed until it is repaired*
23 *and restored and effective adaptive management measures are*
24 *implemented to prevent repeated or continuous damage. The area*
25 *shall be permanently closed if repeated or continuous damage*
26 *cannot be prevented.*

27 (b) (1) The division, in consultation with the United States
28 Natural Resource Conservation Service, the United States
29 Geological Survey, the United States Forest Service, the United
30 States Bureau of Land Management, *the United States Fish and*
31 *Wildlife Service, the California Department of Fish and Wildlife,*
32 and the California Department of Conservation shall update the
33 ~~1991~~ 2008 Soil Conservation Guidelines and Standards to establish
34 a generic and measurable soil ~~conservation~~ *conservation*, standard
35 by ~~March 1, 2006,~~ at least sufficient to allow restoration of
36 ~~off-highway motor vehicle areas and trails. The 1991 Soil~~
37 ~~Conservation Guidelines and Standards shall remain in effect until~~
38 ~~they are updated pursuant to this subdivision. December 31, 2020,~~
39 *and shall update the standard at least every five years thereafter.*

1 ~~Upon a determination~~ *If the division determines* that the soil
2 conservation standards and habitat protection plans are not being
3 met in any portion of any state vehicular recreation ~~area area~~, the
4 division shall ~~temporarily close and restore~~ the noncompliant
5 portion ~~to repair and prevent accelerated erosion, until the soil~~
6 ~~conservation standards are met.~~ *pursuant to subdivision (a).*

7 ~~Upon a determination~~ *If the division determines* that the soil
8 conservation standards cannot be met in any portion of any state
9 vehicular recreation ~~area area~~, the division shall *permanently* close
10 ~~and restore~~ the noncompliant portion ~~pursuant to Section 5090.11.~~
11 *pursuant to subdivision (a).*

12 (c) (1) The division shall ~~make compile, and update at least~~
13 *every five years thereafter*, an inventory of wildlife ~~populations~~
14 ~~and their~~ *and native plant populations, including wildlife habitats*
15 *and vegetation communities* in each state vehicular recreation area
16 and shall prepare a wildlife habitat protection ~~program plan~~ to
17 ~~sustain~~ *conserve* a viable species composition specific to each state
18 vehicular recreation area ~~by July 1, 1989.~~ *consistent with*
19 *recommendations of the science advisory team established pursuant*
20 *to Section 5090.39.*

21 (2) If the division determines that the *wildlife* habitat protection
22 ~~program plan~~ is not being met in any portion of any state vehicular
23 recreation area, the division shall close *and restore* the
24 noncompliant portion ~~temporarily until the habitat protection~~
25 ~~program is met.~~ *pursuant to subdivision (a).*

26 (3) If the division determines that the *wildlife* habitat protection
27 ~~program plan~~ cannot be met in any portion of any state vehicular
28 recreation area, the division shall *permanently* close ~~and restore~~
29 ~~that the~~ noncompliant portion ~~pursuant to Section 5090.11.~~
30 *pursuant to subdivision (a).*

31 (d) The division shall *implement a monitoring program to*
32 *monitor the condition of soils and wildlife habitat soils, wildlife,*
33 *and vegetation habitats* in each state vehicular recreation area each
34 year in order to determine whether the soil conservation standards
35 and *wildlife* habitat protection ~~programs plans~~ are being met.

36 (e) The division shall not fund trail construction unless the trail
37 is capable of complying with the conservation specifications
38 prescribed in subdivisions (b) and (c). The division shall not fund
39 trail construction where conservation is not feasible.

1 (f) The division shall ~~monitor~~ *identify* and protect ~~cultural and~~
2 *sensitive natural, cultural, and* archaeological resources within
3 the state vehicular recreation ~~areas~~. *areas as natural and cultural*
4 *preserves closed to off-highway vehicle recreation use.*

5 SEC. 12. Section 5090.39 is added to the Public Resources
6 Code, to read:

7 5090.39. (a) The director shall assemble a science advisory
8 team to advise and assist the department and the division in meeting
9 the natural and cultural resource conservation purposes of this
10 chapter. At the request of the director, the science advisory team
11 shall convene to identify, develop, and prioritize pertinent subjects
12 for investigation and review, compile the best readily available
13 and applicable scientific information, and describe the gaps in that
14 information, if any.

15 (b) The science advisory team shall be composed of the
16 following:

17 (1) Staff from the department, the Department of Fish and
18 Wildlife, the Department of Conservation, and the State Water
19 Resources Control Board.

20 (2) Staff from appropriate federal agencies to the extent that
21 they are able to participate.

22 (3) Five to seven members who are scientists with expertise in
23 soils, geomorphology, natural resource conservation, biology,
24 botany, ecology, historical and cultural resources, or land use
25 management systems. These members should also be familiar with
26 off-highway motor vehicle recreation.

27 (c) Meetings of the science advisory team shall be open to the
28 public and the public shall be given an opportunity to comment
29 on the work of the team. The team shall consider relevant
30 information from local communities, public agencies, public and
31 nonprofit land management agencies, and other interested parties
32 at its meetings.

33 (d) Among other subjects, as determined by the science advisory
34 team or the director, the team shall investigate and, using the best
35 available science, make recommendations to the department
36 regarding all of the following:

37 (1) The soil conservation standards and measures necessary to
38 avoid erosion damage.

(2) Habitat and wildlife assessment protocols appropriate to ensure accurate inventories of natural resources at every individual system unit.

(3) Habitat protection standards necessary for the protection, conservation, and restoration of natural and cultural resources, including sensitive species.

(4) Monitoring, evaluation, and corrective action practices necessary to support necessary adaptive management changes in response to reasonably foreseen events and unforeseen circumstances at individual system units.

(e) The science advisory team shall consider and recommend actions to ensure consistency in the management of system units with other resource protection plans, including, but not limited to, the state wildlife action plan, natural community conservation plans, regional conservation investment strategies, wildlife corridor plans, and other regional land use and resource conservation plans.

(f) The science advisory team shall complete its initial review and submit recommendations to the director by no later than July 1, 2020.

SEC. 13. Section 5090.43 of the Public Resources Code is amended to read:

~~5090.43. (a) State vehicular recreation areas shall be established on lands where there are quality recreational opportunities for off-highway motor vehicles and in accordance with the requirements of Section 5090.35. Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present. The natural and cultural elements of the environment may be managed or modified to enhance the recreational experience consistent with the requirements of Section 5090.35.~~

~~(b) Lands for state vehicular recreation areas shall be selected for acquisition so as to minimize the need for establishing sensitive areas.~~

~~(c) After January 1, 1988, no new~~

5090.43. (a) Lands for state vehicular recreation areas shall be selected to avoid or minimize impacts to natural or cultural resources.

(b) All unavoidable impacts to natural or cultural resources in new, expanded, and existing state vehicular recreation areas shall be mitigated to a level of insignificance by implementing

1 *appropriate mitigation measures, including permanently protecting*
2 *lands that provide comparable natural and cultural resources and*
3 *values. Section 21081 does not apply to establishing new, or*
4 *expanding existing, state vehicular recreation areas. State*
5 *vehicular recreation areas shall incorporate all mitigation and*
6 *permit recommendations or requirements of the Department of*
7 *Fish and Wildlife and the United States Fish and Wildlife Service.*

8 (c) *The use of funds from the Off-Highway Vehicle Trust Fund*
9 *or any other source to purchase land for a state vehicular*
10 *recreation area shall not predetermine that the land is appropriate*
11 *for off-highway vehicle recreation.*

12 (d) *To ensure consistent protection of natural and cultural*
13 *resources across all state parks, including state vehicular*
14 *recreation areas, cultural or natural preserves or state wildernesses*
15 *shall be established within state vehicular recreation areas. To*
16 *protect natural and cultural values, sensitive areas within state*
17 *vehicular recreation areas may be designated by the division if the*
18 *Off-Highway Motor Vehicle Recreation Commission holds a public*
19 *hearing and makes a recommendation therefor. These sensitive*
20 *areas shall be managed by the division in accordance with Sections*
21 *5019.71 and 5019.74, which define the purpose and management*
22 *of natural and cultural preserves.*

23 If
24 (e) *If off-highway motor vehicle use results in damage to any*
25 *natural or cultural values, preserve or values protected therein,*
26 *appropriate measures shall be promptly taken to protect these lands*
27 *from any further damage. These measures may include the erection*
28 *of physical barriers and shall include the restoration of natural*
29 *resources and the repair of damage to cultural resources. damage,*
30 *restore damaged lands, and take measures to prevent future*
31 *damage, including the erection of physical barriers.*

32 SEC. 14. Section 5090.60 of the Public Resources Code is
33 amended to read:

34 5090.60. The fund consists of deposits from the following
35 sources:

36 (a) *Revenues from fuel taxes transferred from the Motor Vehicle*
37 *Fuel Account in the Transportation Tax Fund. State Parks and*
38 *Recreation Fund, pursuant to subdivision (b) of Section 8352.6 of*
39 *the Revenue and Taxation Code.*

1 (b) Fees paid pursuant to subdivision (b) of Section 38225 of
2 the Vehicle Code.

3 (c) Unexpended service fees.

4 (d) Fees and other proceeds collected at state vehicular
5 recreation areas, as provided in subdivision (c) of Section 5010.

6 (e) Reimbursements.

7 (f) Revenues and income from any other source required by law
8 to be deposited in the fund.

9 SEC. 15. Section 5090.61 of the Public Resources Code is
10 amended to read:

11 5090.61. Moneys in the fund shall be available, upon
12 appropriation by the Legislature, as follows:

13 (a) An amount, not to exceed 50 percent of the annual revenues
14 to the fund, shall be available for grants and cooperative agreements
15 pursuant to Article 5 (commencing with Section 5090.50).

16 (b) (1) The remainder of the annual revenues to the fund shall
17 be available for the support of the division in implementing the
18 off-highway motor vehicle recreation program and for the planning,
19 acquisition, development, *mitigation*, construction, maintenance,
20 administration, operation, restoration, and conservation of lands
21 in the system.

22 (2) As used in this subdivision, “support of the division”
23 includes functions performed outside of the division by others on
24 behalf of the division, including *a prorated share of the*
25 *department’s common overhead and other* costs incurred on behalf
26 of the division for personnel management and training, accounting,
27 and fiscal analysis, records, purchasing, public information
28 activities, consultation of professional scientists and reclamation
29 experts for the purposes of Section 5090.35, and legal services.
30 ~~“Support of the division” does not include costs incurred by, or~~
31 ~~attributable to, the director or the director’s immediate staff, or~~
32 ~~their salaries.~~

33 SEC. 16. Section 5090.70 of the Public Resources Code is
34 amended to read:

35 5090.70. (a) This chapter shall remain in effect only until
36 January 1, ~~2018~~, 2023, and as of that date is repealed, unless a
37 later enacted ~~statute~~, *statute* that is enacted before January 1, ~~2018~~,
38 2023, deletes or extends that date.

39 (b) *No expansion of an existing, or development of any new,*
40 *state vehicular recreation area or allocation of grant program*

1 *funds for new or expanded units of the system shall be undertaken*
2 *or approved until the science advisory team completes its initial*
3 *review and submits its recommendation to the department, pursuant*
4 *to Section 5090.39, and the department implements the team's*
5 *recommendations.*

6 SEC. 17. Section 8352.6 of the Revenue and Taxation Code
7 is amended to read:

8 8352.6. (a) (1) Subject to Section 8352.1, and except as
9 otherwise provided in paragraphs (2) and (3), on the first day of
10 every month, there shall be transferred from moneys deposited to
11 the credit of the Motor Vehicle Fuel Account to the ~~Off-Highway~~
12 ~~Vehicle Trust~~ *State Parks and Recreation Fund* created by Section
13 ~~38225 5010~~ of the ~~Vehicle~~ *Public Resources* Code an amount
14 attributable to taxes imposed upon distributions of motor vehicle
15 fuel used in the operation of motor vehicles off highway and for
16 which a refund has not been claimed. Transfers made pursuant to
17 this section shall be made prior to transfers pursuant to Section
18 8352.2.

19 (2) ~~Commencing July 1, 2012, the~~ *The* revenues attributable to
20 the taxes imposed pursuant to subdivision (b) of Section 7360 and
21 ~~Section 7361.1~~ and otherwise to be deposited in the ~~Off-Highway~~
22 ~~Vehicle Trust~~ *State Parks and Recreation Fund* pursuant to
23 paragraph (1) shall instead be transferred to the General Fund. ~~The~~
24 ~~revenues attributable to the taxes imposed pursuant to subdivision~~
25 ~~(b) of Section 7360 and Section 7361.1 that were deposited in the~~
26 ~~Off-Highway Vehicle Trust Fund in the 2010-11 and 2011-12~~
27 ~~fiscal years shall be transferred to the General Fund.~~

28 (3) The Controller shall withhold eight hundred thirty-three
29 thousand dollars (\$833,000) from the monthly transfer to the
30 ~~Off-Highway Vehicle Trust~~ *State Parks and Recreation Fund*
31 pursuant to paragraph (1), and transfer that amount to the General
32 Fund.

33 (b) *The Director of Parks and Recreation, in consultation with*
34 *the State Park and Recreation Commission, shall include, in the*
35 *annual budget to be submitted by the Governor to the Legislature,*
36 *a proposed allocation of fuel taxes transferred to the State Parks*
37 *and Recreation Fund pursuant to this section for the purposes of*
38 *the department, including support for state parks and the*
39 *Off-Highway Motor Vehicle Recreation Program established*
40 *pursuant to Chapter 1.25 (commencing with Section 5090.01) of*

1 *Division 5 of the Public Resources Code. Upon enactment of the*
2 *Budget Act, moneys to be allocated pursuant to the budget for the*
3 *purposes of the Off-Highway Motor Vehicle Recreation Program*
4 *shall be transferred to the Off-Highway Vehicle Trust Fund created*
5 *by Section 38225 of the Vehicle Code.*

6 ~~(b)~~

7 ~~(c) The amount transferred to the Off-Highway Vehicle Trust~~
8 ~~Fund pursuant to paragraph (1) of subdivision (a), as a percentage~~
9 ~~of the Motor Vehicle Fuel Account, (a) shall be equal to the~~
10 ~~percentage transferred in the 2006–07 fiscal year. Every five years,~~
11 ~~starting in the 2013–14 fiscal year, the percentage transferred may~~
12 ~~be adjusted by the Department of Transportation in cooperation~~
13 ~~with the Department of Parks and Recreation and the Department~~
14 ~~of Motor Vehicles. Adjustments shall be based on, but not limited~~
15 ~~to, the changes in the following factors since the 2006–07 fiscal~~
16 ~~year or the last adjustment, whichever is more recent: motor vehicle~~
17 ~~fuel tax revenue paid by motor vehicles when actually used off~~
18 ~~highway for motorized recreation at units of the system, as defined~~
19 ~~in Section 5090.09 of the Public Resources Code, and by motor~~
20 ~~vehicles when actually used off highway to access nonmotorized~~
21 ~~recreation, whether or not that recreation is in a unit of the state~~
22 ~~park system. To calculate the amount of the transfer, an estimate~~
23 ~~shall be made every five years by the Department of~~
24 ~~Transportation, in cooperation with the Department of Parks and~~
25 ~~Recreation and the Department of Motor Vehicles, of the fuel tax~~
26 ~~revenues attributable to the following vehicles solely while in~~
27 ~~off-highway use:~~

28 ~~(1) The number of vehicles registered—Vehicles identified with~~
29 ~~the Department of Motor Vehicles as off-highway motor vehicles~~
30 ~~as required by Division 16.5 (commencing with Section 38000)~~
31 ~~of the Vehicle Code.~~

32 ~~(2) The number of registered—Registered street-legal vehicles~~
33 ~~that are anticipated to be used off highway, highway for motorized~~
34 ~~recreation at units of the system, as defined in Section 5090.09 of~~
35 ~~the Public Resources Code, and registered street-legal vehicles~~
36 ~~used off highway to access nonmotorized recreation, including~~
37 ~~four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport~~
38 ~~motorcycles.~~

39 ~~(3) Attendance at the state vehicular recreation areas.~~

40 ~~(4) Off-highway recreation use~~

1 (3) *Vehicles used off highway for motorized recreation or used*
2 *off highway to access nonmotorized recreation on federal lands*
3 *as indicated by the United States Forest Service's National Visitor*
4 *Use Monitoring and the United States Bureau of Land*
5 *Management's Recreation Management Information—System*
6 *System, to the extent not otherwise accounted for in paragraph (1)*
7 *or (2).*

8 (e)

9 (d) It is the intent of the Legislature that transfers from the Motor
10 Vehicle Fuel Account to the ~~Off-Highway Vehicle Trust Fund~~
11 *pursuant to subdivision (a)* should reflect the full range of
12 motorized vehicle use off highway for both motorized recreation
13 *on any part of the system, as defined in Section 5090.09 of the*
14 *Public Resources Code, and motorized off-road off-highway access*
15 *to other recreation opportunities. Therefore, the Legislature finds*
16 *that the fuel tax baseline established in subdivision (b), attributable*
17 *to off-highway estimates of use as of the 2006-07 fiscal year,*
18 *accounts for the three categories of vehicles that have been found*
19 *over the years to be users of fuel for off-highway motorized*
20 *recreation or motorized access to nonmotorized recreational*
21 *pursuits. These three categories are registered off-highway*
22 *motorized vehicles, registered street-legal motorized vehicles used*
23 *off highway, and unregistered off-highway motorized vehicles.*
24 *nonmotorized recreation.*

25 ~~(d) It is the intent of the Legislature that the off-highway motor~~
26 ~~vehicle recreational use to be determined by the Department of~~
27 ~~Transportation pursuant to paragraph (2) of subdivision (b) be that~~
28 ~~usage by vehicles subject to registration under Division 3~~
29 ~~(commencing with Section 4000) of the Vehicle Code, for~~
30 ~~recreation or the pursuit of recreation on surfaces where the use~~
31 ~~of vehicles registered under Division 16.5 (commencing with~~
32 ~~Section 38000) of the Vehicle Code may occur.~~

33 (e) *It is the intent of the Legislature that the motor vehicle fuel*
34 *tax revenues transferred pursuant to paragraph (1) of subdivision*
35 *(a) that are associated with off-highway access to nonmotorized*
36 *recreation should be used to augment funding available to the*
37 *state park system for road improvements pursuant to Section*
38 *2107.7 of the Streets and Highways Code, and to support*
39 *transportation and access to the state park system and other*
40 *appropriate public recreation areas for underserved populations*

1 *by, among other things, implementing a grant program for*
2 *nonmotorized recreation and education opportunities.*

3 (e)

4 (f) In the 2014–15 fiscal year, the Department of Transportation,
5 in consultation with the Department of Parks and Recreation and
6 the Department of Motor Vehicles, shall undertake a study to
7 determine the appropriate adjustment to the amount transferred
8 pursuant to subdivision ~~(b)~~ (c) and to update the estimate of the
9 amount attributable to taxes imposed upon distributions of motor
10 vehicle fuel used in the operation of motor vehicles off highway
11 and for which a refund has not been claimed. The department shall
12 provide a copy of this study to the Legislature no later than January
13 1, 2016.

14 SEC. 18. Section 38225 of the Vehicle Code is amended to
15 read:

16 38225. (a) A service fee of seven dollars (\$7) shall be paid to
17 the department for the issuance or renewal of identification of
18 off-highway motor vehicles subject to identification, except as
19 expressly exempted under this division.

20 (b) In addition to the service fee required by subdivision (a), a
21 special fee of thirty-three dollars (\$33) shall be paid at the time of
22 payment of the service fee for the issuance or renewal of an
23 identification plate or device.

24 ~~(c) All money transferred pursuant to Section 8352.6 of the~~
25 ~~Revenue and Taxation Code, all fees received by the department~~
26 ~~pursuant to subdivision ~~(b)~~; (b) and all day use, overnight use, or~~
27 ~~annual or biennial use fees for state vehicular recreation areas~~
28 ~~received by the Department of Parks and Recreation shall be~~
29 ~~deposited in the Off-Highway Vehicle Trust Fund, which is hereby~~
30 ~~created. In addition, the moneys allocated pursuant to subdivision~~
31 ~~(b) of Section 8352.6 of the Revenue and Taxation Code for the~~
32 ~~purposes of the off-highway motor vehicle recreation program in~~
33 ~~each Budget Act shall be transferred to the fund. There shall be a~~
34 ~~separate reporting of special fee revenues by vehicle type, including~~
35 ~~four-wheeled vehicles, all-terrain vehicles, motorcycles, and~~
36 ~~snowmobiles. All money described in this subdivision shall be~~
37 ~~deposited in the fund, and, upon appropriation by the Legislature,~~
38 ~~shall be allocated according to Section 5090.61 of the Public~~
39 ~~Resources Code.~~

1 ~~(d) Any money temporarily transferred by the Legislature from~~
2 ~~the Off-Highway Vehicle Trust Fund to the General Fund shall be~~
3 ~~reimbursed, without interest, by the Legislature within two fiscal~~
4 ~~years of the transfer.~~

5 ~~(e)~~

6 ~~(d)~~ This section shall remain in effect only until January 1, ~~2018,~~
7 ~~2023,~~ and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, ~~2018,~~ ~~2023,~~ deletes or extends
9 that date. Any unencumbered funds remaining in the Off-Highway
10 Vehicle Trust Fund on January 1, ~~2018,~~ ~~2023,~~ shall be transferred
11 to the General Fund.

12 SEC. 19. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the California Constitution and shall
15 go into immediate effect. The facts constituting the necessity are:

16 In order to make necessary changes to funding mechanisms for
17 off-highway vehicle programs and related purposes as quickly as
18 possible, it is necessary that this act take effect immediately.

ASSEMBLY BILL

No. 382

Introduced by Assembly Member Voepel

(Coauthors: Assembly Members Brough, Gallagher, Harper, Lackey, Mathis, Mayes, Patterson, Steinorth, ~~and Waldron~~ Waldron, Acosta, and Chen)

(Coauthors: Senators Anderson, Bates, Berryhill, Nielsen, ~~and Wilk~~ Wilk, and Vidak)

February 9, 2017

An act to amend Section 8352.6 of the Revenue and Taxation Code, relating to fuel taxes.

LEGISLATIVE COUNSEL'S DIGEST

AB 382, as introduced, Voepel. Fuel taxes: Off-Highway Vehicle Trust Fund.

Existing law imposes an excise tax on motor vehicle fuel (gasoline). Existing law, as a result of the elimination of the sales tax on gasoline effective July 1, 2010, provides for a commensurate increase in the excise tax on gasoline. These taxes are deposited to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Existing law requires certain moneys attributable to taxes imposed upon distribution of gasoline related to specified off-highway motor vehicles and off-highway vehicle activities to be transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund. Existing law, however, transfers, with respect to the increase in gasoline excise taxes as a result of the elimination of the sales tax on gasoline, to the General Fund the revenues attributable to off-highway vehicles that would otherwise be deposited in the Off-Highway Vehicle Trust Fund. Existing law also requires the Controller to withhold \$833,000 from

the monthly transfer, and transfer that amount to the General Fund. The moneys in the Off-Highway Vehicle Trust Fund are required to be used, upon appropriation, for specified purposes related to off-highway motor vehicle recreation.

This bill would, on June 30, 2018, eliminate the requirement that the Controller withhold \$833,000 from the monthly transfer and transfer it to the General Fund and would thereby transfer this amount monthly to the Off-Highway Vehicle Trust Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8352.6 of the Revenue and Taxation
2 Code is amended to read:
3 8352.6. (a) (1) Subject to Section 8352.1, and except as
4 otherwise provided in paragraphs (2) and (3), on the first day of
5 every month, there shall be transferred from moneys deposited to
6 the credit of the Motor Vehicle Fuel Account to the Off-Highway
7 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
8 an amount attributable to taxes imposed upon distributions of motor
9 vehicle fuel used in the operation of motor vehicles off highway
10 and for which a refund has not been claimed. Transfers made
11 pursuant to this section shall be made ~~prior to~~ before transfers
12 pursuant to Section 8352.2.
13 (2) Commencing July 1, 2012, the revenues attributable to the
14 taxes imposed pursuant to subdivision (b) of Section 7360 and
15 Section 7361.1 and otherwise to be deposited in the Off-Highway
16 Vehicle Trust Fund pursuant to paragraph (1) shall instead be
17 transferred to the General Fund. The revenues attributable to the
18 taxes imposed pursuant to subdivision (b) of Section 7360 and
19 Section 7361.1 that were deposited in the Off-Highway Vehicle
20 Trust Fund in the 2010–11 and 2011–12 fiscal years shall be
21 transferred to the General Fund.
22 (3) ~~The~~ Until June 30, 2018, the Controller shall withhold eight
23 hundred thirty-three thousand dollars (\$833,000) from the monthly
24 transfer to the Off-Highway Vehicle Trust Fund pursuant to
25 paragraph (1), and transfer that amount to the General Fund.
26 (b) The amount transferred to the Off-Highway Vehicle Trust
27 Fund pursuant to paragraph (1) of subdivision (a), as a percentage

1 of the Motor Vehicle Fuel Account, shall be equal to the percentage
2 transferred in the 2006–07 fiscal year. Every five years, starting
3 in the 2013–14 fiscal year, the percentage transferred may be
4 adjusted by the Department of Transportation in cooperation with
5 the Department of Parks and Recreation and the Department of
6 Motor Vehicles. Adjustments shall be based on, but not limited
7 to, the changes in the following factors since the 2006–07 fiscal
8 year or the last adjustment, whichever is more recent:

9 (1) The number of vehicles registered as off-highway motor
10 vehicles as required by Division 16.5 (commencing with Section
11 38000) of the Vehicle Code.

12 (2) The number of registered street-legal vehicles that are
13 anticipated to be used off highway, including four-wheel drive
14 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

15 (3) Attendance at the state vehicular recreation areas.

16 (4) Off-highway recreation use on federal lands as indicated by
17 the United States Forest Service’s National Visitor Use Monitoring
18 and the United States Bureau of Land Management’s Recreation
19 Management Information System.

20 (c) It is the intent of the Legislature that transfers from the Motor
21 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
22 should reflect the full range of motorized vehicle use off highway
23 for both motorized recreation and motorized off-road access to
24 other recreation opportunities. Therefore, the Legislature finds that
25 the fuel tax baseline established in subdivision (b), attributable to
26 off-highway estimates of use as of the 2006–07 fiscal year,
27 accounts for the three categories of vehicles that have been found
28 over the years to be users of fuel for off-highway motorized
29 recreation or motorized access to nonmotorized recreational
30 pursuits. These three categories are registered off-highway
31 motorized vehicles, registered street-legal motorized vehicles used
32 off highway, and unregistered off-highway motorized vehicles.

33 (d) It is the intent of the Legislature that the off-highway motor
34 vehicle recreational use to be determined by the Department of
35 Transportation pursuant to paragraph (2) of subdivision (b) be that
36 usage by vehicles subject to registration under Division 3
37 (commencing with Section 4000) of the Vehicle Code, for
38 recreation or the pursuit of recreation on surfaces where the use
39 of vehicles registered under Division 16.5 (commencing with
40 Section 38000) of the Vehicle Code may occur.

1 (e) In the 2014–15 fiscal year, the Department of Transportation,
2 in consultation with the Department of Parks and Recreation and
3 the Department of Motor Vehicles, shall undertake a study to
4 determine the appropriate adjustment to the amount transferred
5 pursuant to subdivision (b) and to update the estimate of the amount
6 attributable to taxes imposed upon distributions of motor vehicle
7 fuel used in the operation of motor vehicles off highway and for
8 which a refund has not been claimed. The department shall provide
9 a copy of this study to the Legislature no later than January 1,
10 2016.

11

12

13 **REVISIONS:**14 **Heading—Lines 3 and 4.**

15

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AMENDED IN ASSEMBLY APRIL 18, 2017

AMENDED IN ASSEMBLY MARCH 22, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 533

Introduced by Assembly Member Holden

February 13, 2017

An act to amend ~~Sections 38316, 38317, 38318, and 38318.5~~ *Section 38316* of the Vehicle Code, relating to off-highway motor vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 533, as amended, Holden. Off-highway motor vehicles.

Existing law makes it a misdemeanor punishable by imprisonment in a county jail, as specified, or by a fine of not less than \$50 nor more than \$500, or by both that imprisonment and fine, to drive an off-highway motor vehicle with a willful and wanton disregard for the safety of other persons or property. ~~Existing law makes it a misdemeanor punishable by imprisonment in a county jail, as specified, or by a fine of not less than \$100, nor more than \$1,000, or by both that imprisonment and fine, to recklessly drive an off-highway motor vehicle and proximately cause bodily injury to any person. Existing law makes it a misdemeanor punishable by imprisonment in a county jail, as specified, or by a fine not exceeding \$1,000, or by both that imprisonment and fine, to throw any substance at an off-highway motor vehicle or occupant of that vehicle. Existing law makes it a misdemeanor punishable by imprisonment in a county jail, as specified, or by a fine not exceeding \$1,000, or by both that imprisonment and fine, to maliciously remove or alter trail, danger, or directional markers or signs provided for the safety or guidance of off-highway motor vehicles.~~

This bill would ~~double the amounts of the fines applicable to those offenses; change the potential fine amount applicable to this offense to not less than \$145 nor more than \$500.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 38316 of the Vehicle Code is amended
2 to read:

3 38316. (a) It is unlawful for a person to drive an off-highway
4 motor vehicle with a willful and wanton disregard for the safety
5 of other persons or property.

6 (b) A person who violates this section shall, upon conviction
7 thereof, be punished by imprisonment in a county jail for not less
8 than five days nor more than 90 days or by a fine of not less than
9 ~~one hundred dollars (\$100)~~ *one hundred forty-five dollars (\$145)*
10 ~~nor more than one thousand dollars (\$1,000);~~ *five hundred dollars*
11 *(\$500),* or by both that fine and imprisonment, except as provided
12 in Section 38317.

13 ~~SEC. 2. Section 38317 of the Vehicle Code is amended to read:~~

14 ~~38317. Whenever reckless driving of an off-highway motor~~
15 ~~vehicle proximately causes bodily injury to any person, the person~~
16 ~~driving the vehicle shall, upon conviction thereof, be punished by~~
17 ~~imprisonment in a county jail for not less than 30 days nor more~~
18 ~~than six months or by a fine of not less than two hundred dollars~~
19 ~~(\$200) nor more than two thousand dollars (\$2,000), or by both~~
20 ~~that fine and imprisonment.~~

21 ~~SEC. 3. Section 38318 of the Vehicle Code is amended to read:~~

22 ~~38318. (a) A person who throws any substance at an~~
23 ~~off-highway motor vehicle or occupant thereof is guilty of a~~
24 ~~misdemeanor and shall be punished by a fine of not more than two~~
25 ~~thousand dollars (\$2,000) or by imprisonment in a county jail for~~
26 ~~not more than six months, or by both the fine and imprisonment.~~

27 ~~(b) A person who, with intent to do great bodily injury,~~
28 ~~maliciously and willfully throws or projects any rock, brick, bottle,~~
29 ~~metal, or other missile, projects any other substance capable of~~
30 ~~doing serious bodily harm, or discharges a firearm at an~~
31 ~~off-highway motor vehicle or occupant thereof is guilty of a felony.~~

1 ~~SEC. 4. Section 38318.5 of the Vehicle Code is amended to~~
2 ~~read:~~

3 ~~38318.5. (a) A person who maliciously removes or alters trail,~~
4 ~~danger, or directional markers or signs provided for the safety or~~
5 ~~guidance of off-highway motor vehicles is guilty of a misdemeanor~~
6 ~~and shall be punished by a fine of not more than two thousand~~
7 ~~dollars (\$2,000) or by imprisonment in a county jail for not more~~
8 ~~than six months, or by both the fine and imprisonment.~~

9 ~~(b) A person who, with intent to do great bodily injury,~~
10 ~~proximately causes great bodily injury to any person as a result of~~
11 ~~acts prohibited by subdivision (a), or erects or places any cable,~~
12 ~~chain, rope, fishing line, or other similar material that is unmarked~~
13 ~~or intentionally placed, or both, for malicious purpose is guilty of~~
14 ~~a felony.~~

15 ~~(c) A person convicted under subdivision (a) or (b) shall, if the~~
16 ~~violation proximately causes one or more adverse environmental~~
17 ~~impacts, also be liable in civil damages for the cost of mitigation,~~
18 ~~restoration, or repair thereof, in addition to any other liability~~
19 ~~imposed by law.~~

AMENDED IN ASSEMBLY APRIL 5, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1077

Introduced by Assembly Member O'Donnell
(Coauthors: Assembly Members Gallagher and Lackey)
(Coauthor: Senator Anderson)

February 16, 2017

An act to ~~repeal Article 7 (commencing with Section 5090.70) of Chapter 1.25 of Division 5~~ amend Section 5090.70 of the Public Resources Code, and to amend Section 38225 of the Vehicle Code, relating to off-highway vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1077, as amended, O'Donnell. Off-highway vehicles.

The Off-Highway Motor Vehicle Recreation Act of 2003 (act) provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails, establishes the Off-Highway Motor Vehicle Recreation Commission and the Division of Off-Highway Motor Vehicle Recreation within the Department of Motor Vehicles, and provides a grant program for, among other things, acquisition, administration, maintenance, and operation of areas and facilities associated with the use of off-highway motor vehicles. These provisions are to be repealed on January 1, 2018.

This bill would extend the operation of the act ~~indefinitely~~ until January 1, 2019, unless a specified report is not received by the Legislature by January 1, 2018, in which case the act would be repealed on July 1, 2018.

Existing law generally imposes a service fee of \$7 for the issuance or renewal of identification of off-highway motor vehicles subject to identification, and a special fee of \$33 paid at the time of payment of the service fee. Existing law requires the special fees, specified use fees for state vehicular recreation areas, and other specified funds to be deposited in the Off-Highway Vehicle Trust Fund, and requires moneys in the fund, upon appropriation, to be allocated for specified purposes related to off-highway recreation. These provisions are to be repealed on January 1, 2018.

This bill would extend the operation of these ~~provisions indefinitely~~ provisions, including the authorization for the special fee, until January 1, 2019, unless a specified report is not received by the Legislature by January 1, 2018, in which case the provisions would be repealed on July 1, 2018.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Article 7 (commencing with Section 5090.70) of~~
2 ~~Chapter 1.25 of Division 5 of the Public Resources Code is~~
3 ~~repealed.~~

4 ~~SECTION 1. Section 5090.70 of the Public Resources Code is~~
5 ~~amended to read:~~

6 5090.70. (a) This chapter shall remain in effect only until
7 January 1, ~~2018~~, 2019, and as of that date is repealed, unless a
8 later enacted statute, that is enacted before January 1, ~~2018~~, 2019,
9 deletes or extends that date.

10 (b) *Notwithstanding subdivision (a), if the report required*
11 *pursuant to subdivision (e) of Section 8352.6 of the Revenue and*
12 *Taxation Code is not received by the Legislature by January 1,*
13 *2018, this section is repealed on July 1, 2018.*

14 SEC. 2. Section 38225 of the Vehicle Code is amended to read:

15 38225. (a) A service fee of seven dollars (\$7) shall be paid to
16 the department for the issuance or renewal of identification of
17 off-highway motor vehicles subject to identification, except as
18 expressly exempted under this division.

1 (b) In addition to the service fee required by subdivision (a), a
2 special fee of thirty-three dollars (\$33) shall be paid at the time of
3 payment of the service fee for the issuance or renewal of an
4 identification plate or device.

5 (c) All money transferred pursuant to Section 8352.6 of the
6 Revenue and Taxation Code, all fees received by the department
7 pursuant to subdivision (b), and all day use, overnight use, or
8 annual or biennial use fees for state vehicular recreation areas
9 received by the Department of Parks and Recreation shall be
10 deposited in the Off-Highway Vehicle Trust Fund, which is hereby
11 created. There shall be a separate reporting of special fee revenues
12 by vehicle type, including four-wheeled vehicles, all-terrain
13 vehicles, motorcycles, and snowmobiles. All money shall be
14 deposited in the fund, and, upon appropriation by the Legislature,
15 shall be allocated according to Section 5090.61 of the Public
16 Resources Code.

17 (d) Any money temporarily transferred by the Legislature from
18 the Off-Highway Vehicle Trust Fund to the General Fund shall be
19 reimbursed, without interest, by the Legislature within two fiscal
20 years of the transfer.

21 *(e) Any unencumbered funds remaining in the Off-Highway*
22 *Vehicle Trust Fund on the date of repeal of this section pursuant*
23 *to either subdivision (f) or (g) shall be transferred to the General*
24 *Fund.*

25 *(f) This section shall remain in effect only until January 1, 2019,*
26 *and as of that date is repealed.*

27 *(g) Notwithstanding subdivision (f), if the report required*
28 *pursuant to subdivision (e) of Section 8352.6 of the Revenue and*
29 *Taxation Code is not received by the Legislature by January 1,*
30 *2018, this section is repealed on July 1, 2018.*

31 SEC. 3. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety within
33 the meaning of Article IV of the California Constitution and shall
34 go into immediate effect. The facts constituting the necessity are:

35 In order to provide for ~~the appropriate analysis for the~~
36 ~~Legislature to decide as soon as possible whether or not to approve~~
37 ~~the extension of the Off-Highway Motor Vehicle Program as~~

- 1 ~~quickly as possible~~, *Program*, it is necessary for this act to take
- 2 effect immediately.

115TH CONGRESS
1ST SESSION

S. 32

To provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 5, 2017

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “California Desert Protection and Recreation Act of
6 2017”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA DESERT CONSERVATION AND RECREATION

- Sec. 101. California Desert conservation and recreation.
 Sec. 102. Visitor center.
 Sec. 103. California State school land.
 Sec. 104. Designation of wild and scenic rivers.
 Sec. 105. Conforming amendments.

TITLE II—DEVELOPMENT OF RENEWABLE ENERGY ON PUBLIC
 LAND

- Sec. 201. Definitions.
 Sec. 202. Disposition of revenues.

1 **TITLE I—CALIFORNIA DESERT**
 2 **CONSERVATION AND RECRE-**
 3 **ATION**

4 **SEC. 101. CALIFORNIA DESERT CONSERVATION AND**
 5 **RECREATION.**

6 (a) IN GENERAL.—Public Law 103–433 (16 U.S.C.
 7 410aaa et seq.) is amended by adding at the end the fol-
 8 lowing:

9 **“TITLE XIII—WILDERNESS**

10 **“SEC. 1301. DESIGNATION OF WILDERNESS AREAS.**

11 “(a) DESIGNATION OF WILDERNESS AREAS TO BE
 12 ADMINISTERED BY THE BUREAU OF LAND MANAGE-
 13 MENT.—In accordance with the Wilderness Act (16 U.S.C.
 14 1131 et seq.) and sections 601 and 603 of the Federal
 15 Land Policy and Management Act of 1976 (43 U.S.C.
 16 1781, 1782), the following land in the State is designated
 17 as wilderness areas and as components of the National
 18 Wilderness Preservation System:

1 **“SEC. 1504. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such sums
3 as are necessary to carry out this title.

4 **“TITLE XVI—OFF-HIGHWAY**
5 **VEHICLE RECREATION AREAS**

6 **“SEC. 1601. DESIGNATION OF OFF-HIGHWAY VEHICLE**
7 **RECREATION AREAS.**

8 “(a) IN GENERAL.—

9 “(1) DESIGNATION.—In accordance with the
10 Federal Land Policy and Management Act of 1976
11 (43 U.S.C. 1701 et seq.) and resource management
12 plans developed under this title and subject to valid
13 rights, the following land within the Conservation
14 Area in San Bernardino County, California, is des-
15 ignated as Off-Highway Vehicle Recreation Areas:

16 “(A) DUMONT DUNES OFF-HIGHWAY VEHI-
17 CLE RECREATION AREA.—Certain Bureau of
18 Land Management land in the Conservation
19 Area, comprising approximately 7,630 acres, as
20 generally depicted on the map entitled ‘Dumont
21 Dunes Proposed National OHV Recreation
22 Area’ and dated January 5, 2015, which shall
23 be known as the ‘Dumont Dunes Off-Highway
24 Vehicle Recreation Area’.

25 “(B) EL MIRAGE OFF-HIGHWAY VEHICLE
26 RECREATION AREA.—Certain Bureau of Land

1 Management land in the Conservation Area,
2 comprising approximately 14,930 acres, as gen-
3 erally depicted on the map entitled 'El Mirage
4 Proposed National OHV Recreation Area' and
5 dated July 15, 2009, which shall be known as
6 the 'El Mirage Off-Highway Vehicle Recreation
7 Area'.

8 “(C) RASOR OFF-HIGHWAY VEHICLE
9 RECREATION AREA.—Certain Bureau of Land
10 Management land in the Conservation Area,
11 comprising approximately 23,910 acres, as gen-
12 erally depicted on the map entitled 'Rasor Pro-
13 posed National OHV Recreation Area' and
14 dated July 15, 2009, which shall be known as
15 the 'Rasor Off-Highway Vehicle Recreation
16 Area'.

17 “(D) SPANGLER HILLS OFF-HIGHWAY VE-
18 HICLE RECREATION AREA.—Certain Bureau of
19 Land Management land in the Conservation
20 Area, comprising approximately 56,140 acres,
21 as generally depicted on the map entitled
22 'Spangler Hills Proposed National OHV Recre-
23 ation Area' and dated February 19, 2016,
24 which shall be known as the 'Spangler Off-
25 Highway Vehicle Recreation Area'.

1 “(E) STODDARD VALLEY OFF-HIGHWAY
 2 VEHICLE RECREATION AREA.—Certain Bureau
 3 of Land Management land in the Conservation
 4 Area, comprising approximately 40,110 acres,
 5 as generally depicted on the map entitled ‘Stod-
 6 dard Valley Proposed National OHV Recreation
 7 Area’ and dated July 16, 2009, which shall be
 8 known as the ‘Stoddard Valley Off-Highway Ve-
 9 hicle Recreation Area’.

10 “(2) REDESIGNATION AND EXPANSION OF
 11 JOHNSON VALLEY OFF-HIGHWAY VEHICLE RECRE-
 12 ATION AREA.—

13 “(A) IN GENERAL.—The Johnson Valley
 14 Off-Highway Vehicle Recreation Area des-
 15 ignated by section 2945 of the Military Con-
 16 struction Authorization Act for Fiscal Year
 17 2014 (division B of Public Law 113–66; 127
 18 Stat. 1038)—

19 “(i) is redesignated as the ‘Johnson
 20 Valley National Off-Highway Vehicle
 21 Recreation Area’; and

22 “(ii) is expanded to include certain
 23 land as generally depicted on the map enti-
 24 tled ‘Proposed Johnson Valley Off-High-

1 way Vehicle Recreation Area Additions’
2 and dated September 27, 2016.

3 “(B) RELATION TO AUTHORIZED NAVY
4 USE.—The redesignation of the Johnson Valley
5 Off-Highway Vehicle Recreation Area as the
6 Johnson Valley National Off-Highway Vehicle
7 Recreation Area does not alter or interfere with
8 the rights and obligations of the Navy regard-
9 ing the use of portions of the Recreation Area
10 as provided in subtitle C of title XXIX of the
11 Military Construction Authorization Act for
12 Fiscal Year 2014 (division B of Public Law
13 113–66; 127 Stat. 1034).

14 “(C) REFERENCES.—Any reference in any
15 law, regulation, document, record, map, or
16 other paper of the United States to the John-
17 son Valley Off-Highway Vehicle Recreation
18 Area shall be deemed to be a reference to the
19 Johnson Valley National Off-Highway Vehicle
20 Recreation Area.

21 “(b) PURPOSE.—The purpose of the off-highway ve-
22 hicle recreation areas designated or expanded under sub-
23 section (a) is to preserve and enhance the recreational op-
24 portunities within the Conservation Area (including oppor-
25 tunities for off-highway vehicle recreation), while con-

1 serving the wildlife and other natural resource values of
2 the Conservation Area.

3 “(c) MAPS AND DESCRIPTIONS.—

4 “(1) PREPARATION AND SUBMISSION.—As soon
5 as practicable after the date of enactment of this
6 title, the Secretary shall file a map and legal de-
7 scription of each off-highway vehicle recreation area
8 designated or expanded by subsection (a) with—

9 “(A) the Committee on Natural Resources
10 of the House of Representatives; and

11 “(B) the Committee on Energy and Nat-
12 ural Resources of the Senate.

13 “(2) LEGAL EFFECT.—The map and legal de-
14 scriptions of the off-highway vehicle recreation areas
15 filed under paragraph (1) shall have the same force
16 and effect as if included in this title, except that the
17 Secretary may correct errors in the map and legal
18 descriptions.

19 “(3) PUBLIC AVAILABILITY.—Each map and
20 legal description filed under paragraph (1) shall be
21 filed and made available for public inspection in the
22 appropriate offices of the Bureau of Land Manage-
23 ment.

24 “(d) USE OF THE LAND.—

25 “(1) RECREATIONAL ACTIVITIES.—

1 “(A) IN GENERAL.—The Secretary shall
2 continue to authorize, maintain, and enhance
3 the recreational uses of the off-highway vehicle
4 recreation areas designated or expanded by sub-
5 section (a), including off-highway recreation,
6 hiking, camping, hunting, mountain biking,
7 sightseeing, rockhounding, and horseback
8 riding, as long as the recreational use is con-
9 sistent with this section and any other applica-
10 ble law.

11 “(B) OFF-HIGHWAY VEHICLE AND OFF-
12 HIGHWAY RECREATION.—To the extent con-
13 sistent with applicable Federal law (including
14 regulations) and this section, any authorized
15 recreation activities and use designations in ef-
16 fect on the date of enactment of this title and
17 applicable to the off-highway vehicle recreation
18 areas designated or expanded by subsection (a)
19 shall continue, including casual off-highway ve-
20 hicular use, racing, competitive events, rock
21 crawling, training, and other forms of off-high-
22 way recreation.

23 “(2) WILDLIFE GUZZLERS.—Wildlife guzzlers
24 shall be allowed in the off-highway vehicle recreation

1 areas designated or expanded by subsection (a) in
2 accordance with—

3 “(A) applicable Bureau of Land Manage-
4 ment guidelines; and

5 “(B) State law.

6 “(3) PROHIBITED USES.—Commercial develop-
7 ment (including development of mining and energy
8 facilities, but excluding energy transport facilities,
9 rights-of-way, and related telecommunication facili-
10 ties) shall be prohibited in the off-highway vehicle
11 recreation areas designated or expanded by sub-
12 section (a) if the Secretary determines that the de-
13 velopment is incompatible with the purpose described
14 in subsection (b).

15 “(e) ADMINISTRATION.—

16 “(1) IN GENERAL.—The Secretary shall admin-
17 ister the off-highway vehicle recreation areas des-
18 ignated or expanded by subsection (a) in accordance
19 with—

20 “(A) this title;

21 “(B) the Federal Land Policy and Man-
22 agement Act of 1976 (43 U.S.C. 1701 et seq.);
23 and

24 “(C) any other applicable laws (including
25 regulations).

1 “(2) MANAGEMENT PLAN.—

2 “(A) IN GENERAL.—As soon as prac-
3 ticable, but not later than 3 years after the date
4 of enactment of this title, the Secretary shall—

5 “(i) amend existing resource manage-
6 ment plans applicable to the off-highway
7 vehicle recreation areas designated or ex-
8 panded by subsection (a); or

9 “(ii) develop new management plans
10 for each off-highway vehicle recreation
11 area designated or expanded under that
12 subsection.

13 “(B) REQUIREMENTS.—All new or amend-
14 ed plans under subparagraph (A) shall be de-
15 signed to preserve and enhance safe off-highway
16 vehicle and other recreational opportunities
17 within the applicable recreation area consistent
18 with—

19 “(i) the purpose described in sub-
20 section (b); and

21 “(ii) any applicable laws (including
22 regulations).

23 “(C) INTERIM PLANS.—Pending comple-
24 tion of a new management plan under subpara-
25 graph (A), the existing resource management

1 plans shall govern the use of the applicable off-
2 highway vehicle recreation area.

3 “(f) STUDY.—

4 “(1) IN GENERAL.—As soon as practicable, but
5 not later than 2 years, after the date of enactment
6 of this title, the Secretary shall complete a study to
7 identify Bureau of Land Management land within
8 the Conservation Area that is suitable for addition
9 to the national off-highway vehicle recreation areas
10 designated or expanded by subsection (a).

11 “(2) STUDY AREAS.—The study required under
12 paragraph (1) shall include—

13 “(A) certain Bureau of Land Management
14 land in the Conservation Area, comprising ap-
15 proximately 41,000 acres, as generally depicted
16 on the map entitled ‘Spangler Hills Proposed
17 Expansion Study Area’ and dated January 23,
18 2015;

19 “(B) certain Bureau of Land Management
20 land in the Conservation Area, comprising ap-
21 proximately 680 acres, as generally depicted on
22 the map entitled ‘El Mirage Proposed Expan-
23 sion Study Area’ and dated January 21, 2015;
24 and

1 “(C) certain Bureau of Land Management
2 land in the Conservation Area, comprising ap-
3 proximately 51,600 acres, as generally depicted
4 on the map entitled ‘Johnson Valley Proposed
5 Expansion Study Area’ and dated September
6 27, 2016.

7 “(3) REQUIREMENTS.—In preparing the study
8 under paragraph (1), the Secretary shall—

9 “(A) seek input from stakeholders, includ-
10 ing—

11 “(i) the State, including—

12 “(I) the California Public Utili-
13 ties Commission; and

14 “(II) the California Energy Com-
15 mission;

16 “(ii) San Bernardino County, Cali-
17 fornia;

18 “(iii) the public;

19 “(iv) recreational user groups;

20 “(v) conservation organizations;

21 “(vi) the Southern California Edison
22 Company;

23 “(vii) the Pacific Gas and Electric
24 Company; and

1 “(viii) other Federal agencies, includ-
2 ing the Department of Defense;

3 “(B) explore the feasibility of—

4 “(i) expanding the southern boundary
5 of the off-highway vehicle recreation area
6 described in subsection (a)(1)(C) to include
7 previously disturbed land; and

8 “(ii) establishing a right-of-way for
9 off-highway vehicle use in the areas identi-
10 fied in paragraph (2) to the extent nec-
11 essary to connect the noncontiguous areas
12 of the Johnson Valley National Off-High-
13 way Vehicle Recreation Area;

14 “(C) identify and exclude from consider-
15 ation any land that—

16 “(i) is managed for conservation pur-
17 poses;

18 “(ii) may be suitable for renewable en-
19 ergy development; or

20 “(iii) may be necessary for energy
21 transmission; and

22 “(D) not recommend or approve expansion
23 of national off-highway recreation areas within
24 the Conservation Area that collectively would
25 exceed the total acres administratively des-

1 ignated for off-highway recreation within the
2 Conservation Area as of the day before the date
3 of enactment of the National Defense Author-
4 ization Act for Fiscal Year 2014 (Public Law
5 113-66; 127 Stat. 672).

6 “(4) APPLICABLE LAW.—The Secretary shall
7 consider the information and recommendations of
8 the study completed under paragraph (1) to deter-
9 mine the impacts of expanding off-highway vehicle
10 recreation areas designated or expanded by sub-
11 section (a) on the Conservation Area, in accordance
12 with—

13 “(A) the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et seq.);

15 “(B) the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.); and

17 “(C) any other applicable law (including
18 regulations), plan, and the Desert Renewable
19 Energy Conservation Plan.

20 “(5) SUBMISSION TO CONGRESS.—On comple-
21 tion of the study under paragraph (1), the Secretary
22 shall submit the study to—

23 “(A) the Committee on Natural Resources
24 of the House of Representatives; and

1 “(B) the Committee on Energy and Nat-
2 ural Resources of the Senate.

3 “(6) AUTHORIZATION FOR EXPANSION.—

4 “(A) IN GENERAL.—On completion of the
5 study under paragraph (1) and in accordance
6 with all applicable laws (including regulations),
7 the Secretary shall authorize the expansion of
8 the off-highway vehicle recreation areas rec-
9 ommended under the study.

10 “(B) MANAGEMENT.—Any land within the
11 expanded areas under subparagraph (A) shall
12 be managed in accordance with this section.

13 “(g) SOUTHERN CALIFORNIA EDISON COMPANY
14 UTILITY FACILITIES AND RIGHTS-OF-WAY.—

15 “(1) EFFECT OF TITLE.—Nothing in this
16 title—

17 “(A) terminates any validly issued right-of-
18 way for the customary operation, maintenance,
19 upgrade, repair, relocation within an existing
20 right-of-way, replacement, or other authorized
21 energy transport facility activities (including the
22 use of any mechanized vehicle, helicopter, and
23 other aerial device) in a right-of-way issued,
24 granted, or permitted to Southern California
25 Edison Company (including any predecessor or

1 successor in interest or assign) that is located
2 on land included in—

3 “(i) the El Mirage Off-Highway Vehi-
4 cle Recreation Area;

5 “(ii) the Spangler Hills National Off-
6 Highway Vehicle Recreation Area; or

7 “(iii) the Stoddard Valley National
8 Off Highway Vehicle Recreation Area;

9 “(B) affects the application, siting, route
10 selection, right-of-way acquisition, or construc-
11 tion of the Coolwater-Lugo transmission
12 project, as may be approved by the California
13 Public Utilities Commission and the Bureau of
14 Land Management; or

15 “(C) prohibits the upgrading or replace-
16 ment of any Southern California Edison Com-
17 pany—

18 “(i) utility facility, including such a
19 utility facility known on the date of enact-
20 ment of this title as—

21 “(I) ‘Gale-PS 512 transmission
22 lines or rights-of-way’; or

23 “(II) ‘Patio, Jack Ranch, and
24 Kenworth distribution circuits or
25 rights-of-way’; or

1 “(ii) energy transport facility in a
 2 right-of-way issued, granted, or permitted
 3 by the Secretary adjacent to a utility facil-
 4 ity referred to in clause (i).

5 “(2) PLANS FOR ACCESS.—The Secretary, in
 6 consultation with the Southern California Edison
 7 Company, shall publish plans for regular and emer-
 8 gency access by the Southern California Edison
 9 Company to the rights-of-way of the Company by
 10 the date that is 1 year after the later of—

11 “(A) the date of enactment of this title;
 12 and

13 “(B) the date of issuance of a new energy
 14 transport facility right-of-way within—

15 “(i) the El Mirage Off-Highway Vehi-
 16 cle Recreation Area;

17 “(ii) the Spangler Hills National Off-
 18 Highway Vehicle Recreation Area; or

19 “(iii) the Stoddard Valley National
 20 Off Highway Vehicle Recreation Area.

21 “(h) PACIFIC GAS AND ELECTRIC COMPANY UTILITY
 22 FACILITIES AND RIGHTS-OF-WAY.—

23 “(1) EFFECT OF TITLE.—Nothing in this
 24 title—

1 “(A) terminates any validly issued right-of-
2 way for the customary operation, maintenance,
3 upgrade, repair, relocation within an existing
4 right-of-way, replacement, or other authorized
5 activity (including the use of any mechanized
6 vehicle, helicopter, and other aerial device) in a
7 right-of-way issued, granted, or permitted to
8 Pacific Gas and Electric Company (including
9 any predecessor or successor in interest or as-
10 sign) that is located on land included in the
11 Spangler Hills National Off-Highway Vehicle
12 Recreation Area; or

13 “(B) prohibits the upgrading or replace-
14 ment of any—

15 “(i) utility facilities of the Pacific Gas
16 and Electric Company, including those
17 utility facilities known on the date of en-
18 actment of this title as—

19 “(I) ‘Gas Transmission Line 311
20 or rights-of-way’; or

21 “(II) ‘Gas Transmission Line
22 372 or rights-of-way’; or

23 “(ii) utility facilities of the Pacific
24 Gas and Electric Company in rights-of-way
25 issued, granted, or permitted by the Sec-

1 retary adjacent to a utility facility referred
2 to in clause (i).

3 “(2) PLANS FOR ACCESS.—Not later than 1
4 year after the date of enactment of this title or the
5 issuance of a new utility facility right-of-way within
6 the Spangler Hills National Off-Highway Vehicle
7 Recreation Area, whichever is later, the Secretary, in
8 consultation with the Pacific Gas and Electric Com-
9 pany, shall publish plans for regular and emergency
10 access by the Pacific Gas and Electric Company to
11 the rights-of-way of the Pacific Gas and Electric
12 Company.

13 **“TITLE XVII—ALABAMA HILLS**
14 **NATIONAL SCENIC AREA**

15 **“SEC. 1701. DEFINITIONS.**

16 “In this title:

17 “(1) MANAGEMENT PLAN.—The term ‘manage-
18 ment plan’ means the management plan for the Na-
19 tional Scenic Area developed under section 1703(a).

20 “(2) MAP.—The term ‘Map’ means the map en-
21 titled ‘Proposed Alabama Hills National Scenic
22 Area’ and dated September 8, 2014.

23 “(3) MOTORIZED VEHICLE.—The term ‘motor-
24 ized vehicle’ means a motorized or mechanized vehi-
25 cle and includes, when used by a utility, mechanized

115TH CONGRESS
1ST SESSION

H. R. 289

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2017

Mr. LAMALFA introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINI-**
4 **TIONS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Guides and Outfitters Act” or the “GO Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

3 (c) DEFINITIONS.—In this Act:

4 (1) SECRETARY.—The term “Secretary”
5 means—

6 (A) the Secretary of the Interior, with re-
7 spect to a Federal land management agency
8 (other than the Forest Service); and

9 (B) the Secretary of Agriculture, with re-
10 spect to the Forest Service.

11 (2) SECRETARIES.—The term “Secretaries”
12 means the Secretary of the Interior and the Sec-
13 retary of Agriculture acting jointly.

14 **SEC. 2. SPECIAL RECREATION PERMIT AND FEE.**

15 Subsection (h) of section 803 of the Federal Lands
16 Recreation Enhancement Act (16 U.S.C. 6802) is amend-
17 ed to read as follows:

18 “(h) SPECIAL RECREATION PERMIT AND FEE.—

19 “(1) IN GENERAL.—The Secretary may—

20 “(A) issue a special recreation permit for
21 Federal recreational lands and waters; and

22 “(B) charge a special recreation permit fee
23 in connection with the issuance of the permit.

1 “(2) SPECIAL RECREATION PERMITS.—The
2 Secretary may issue special recreation permits in the
3 following circumstances:

4 “(A) For specialized individual and group
5 use of Federal facilities and Federal rec-
6 reational lands and waters, such as, but not
7 limited to, use of special areas or areas where
8 use is allocated, motorized recreational vehicle
9 use, and group activities or events.

10 “(B) To recreation service providers who
11 conduct outfitting, guiding, and other recre-
12 ation services on Federal recreational lands and
13 waters managed by the Forest Service, Bureau
14 of Land Management, Bureau of Reclamation,
15 or the United States Fish and Wildlife Service.

16 “(C) To recreation service providers who
17 conduct recreation or competitive events, which
18 may involve incidental sales on Federal rec-
19 reational lands and waters managed by the For-
20 est Service, Bureau of Land Management, Bu-
21 reau of Reclamation, or the United States Fish
22 and Wildlife Service.

23 “(3) REDUCTION IN FEDERAL COSTS.—To re-
24 duce Federal costs in administering this subsection,
25 the issuance of a new special recreation permit for

1 activities under paragraph (2) that have been con-
 2 sidered under previous analysis or that are similar
 3 to existing uses or are not inconsistent with ap-
 4 proved uses shall qualify for categorical exclusions
 5 under the National Environmental Policy Act of
 6 1969 (42 U.S.C. 4321 et seq.).”.

7 **SEC. 3. PERMIT ACROSS MULTIPLE JURISDICTIONS.**

8 (a) IN GENERAL.—In the case of an activity requir-
 9 ing permits pursuant to subsection (h) of section 803 of
 10 the Federal Lands Recreation Enhancement Act (16
 11 U.S.C. 6802) for use of lands managed by both the Forest
 12 Service and the Bureau of Land Management—

13 (1) the Secretaries may issue a joint permit
 14 based upon a single application to both agencies
 15 when issuance of a joint permit based upon a single
 16 application will lower processing and other adminis-
 17 tration costs for the permittee, provided that the
 18 permit applicant shall have the option to apply for
 19 separate permits rather than a joint permit; and

20 (2) the permit application required under clause
 21 (i) shall be—

22 (A) the application required by the lead
 23 agency; and

24 (B) submitted to the lead agency.

1 (b) REQUIREMENTS OF THE LEAD AGENCY.—The
2 lead agency for a permit under subsection (a) shall—

3 (1) coordinate with the associated agencies,
4 consistent with the authority of the Secretaries
5 under section 330 of the Department of the Interior
6 and Related Agencies Appropriations Act, 2001 (43
7 U.S.C. 1703), to develop and issue the single, joint
8 permit that covers the entirety of the trip;

9 (2) in processing the joint permit application,
10 incorporate the findings, interests, and needs of the
11 associated agencies, provided that such coordination
12 shall not be subject to cost recovery; and

13 (3) complete the permitting process within a
14 reasonable time after receiving the permit applica-
15 tion.

16 (c) EFFECT ON REGULATIONS.—Nothing in this sec-
17 tion shall alter, expand, or limit the applicability of any
18 Federal law (including regulations) to lands administered
19 by the relevant Federal agencies.

20 (d) DEFINITIONS.—In this section:

21 (1) ASSOCIATED AGENCY.—The term “associ-
22 ated agency” means an agency that manages the
23 land on which the trip of the special recreation per-
24 mit applicant will enter after leaving the land man-
25 aged by the lead agency.

1 (2) LEAD AGENCY.—The term “lead agency”
2 means the agency that manages the land on which
3 the trip of the special recreation permit applicant
4 will begin.

5 **SEC. 4. GUIDELINES AND PERMIT FEE CALCULATION.**

6 (a) GUIDELINES AND EXCLUSION OF CERTAIN REV-
7 ENUES.—The Secretary shall—

8 (1) publish guidelines in the Federal Register
9 for establishing recreation permit fees; and

10 (2) provide appropriate deductions from the fee
11 established under paragraph (1) for—

12 (A) revenue from goods, services, and ac-
13 tivities provided by a recreation service provider
14 outside Federal recreational lands and waters,
15 such as costs for transportation, lodging, and
16 other services before or after a trip; and

17 (B) fees to be paid by permit holder under
18 applicable law to provide services on other Fed-
19 eral lands, if separate permits are issued to
20 that permit holder for a single event.

21 (b) FEE CONDITIONS.—The fee charged by the Sec-
22 retary for a permit issued under section 803(h) of the
23 Federal Lands Recreation Enhancement Act (16 U.S.C.
24 6802(h)) shall not exceed 3 percent of the recreational
25 service provider’s annual gross revenue for activities au-

1 thorized by the permit on Federal lands, plus applicable
 2 revenue additions, minus applicable revenue exclusions or
 3 a similar flat per person fee.

4 (c) DISCLOSURE OF FEES.—A holder of a special
 5 recreation permit may inform its customers of the various
 6 fees charged by the Secretary under section 803(h) of the
 7 Federal Lands Recreation Enhancement Act (16 U.S.C.
 8 6802(h)).

9 **SEC. 5. USE OF PERMIT FEES FOR PERMIT ADMINISTRA-**
 10 **TION.**

11 Revenues from special recreation permits issued to
 12 recreation service providers under subparagraphs (B) and
 13 (C) of section 803(h)(1) of the Federal Lands Recreation
 14 Enhancement Act (16 U.S.C. 6802(h)(1)) shall be used—

15 (1) to partially offset the Secretary's direct cost
 16 of administering the permits; and

17 (2) to improve and streamline the permitting
 18 process.

19 **SEC. 6. ADJUSTMENT TO PERMIT USE REVIEWS.**

20 (a) IN GENERAL.—In reviewing and adjusting alloca-
 21 tions of use for priority use permits for special uses of
 22 Federal recreational lands and waters managed by the
 23 Forest Service, and in renewing such permits, the Sec-
 24 retary of Agriculture shall allocate to a permit holder the
 25 highest amount of actual annual use over the reviewed pe-

1 riod plus 25 percent, capped at the amount of use allo-
2 cated when the permit was issued unless additional capac-
3 ity is available.

4 (b) WAIVER.—Use reviews under subsection (a) may
5 be waived for periods in which circumstances that pre-
6 vented use of assigned capacity, such as weather, fire, nat-
7 ural disasters, wildlife displacement, business interrup-
8 tions, and when allocations on permits include significant
9 shoulder seasons. The authorizing office may approve non-
10 use without reducing the number of service days assigned
11 to the permit in such circumstances at the request of the
12 permit holder. Approved non-use may be temporarily as-
13 signed to other qualified permit holders when conditions
14 warrant.

15 **SEC. 7. AUTHORIZATION OF TEMPORARY PERMITS FOR**
16 **NEW USES FOR THE FOREST SERVICE AND**
17 **BLM.**

18 Not later than 180 days after the date of the enact-
19 ment of this Act, the Secretary of Agriculture and the Sec-
20 retary of the Interior shall establish and implement a pro-
21 gram to authorize temporary permits for new recreational
22 uses of Federal recreational lands and waters managed by
23 the Forest Service or the Bureau of Land Management,
24 respectively, and to provide for the conversions of such
25 temporary permits to long-term permits after 2 years of

1 satisfactory operation. The issuance and conversion of
2 such permits shall be subject to subsection (h)(3) of sec-
3 tion 803 of the Federal Lands Recreation Enhancement
4 Act (16 U.S.C. 6802).

5 **SEC. 8. INDEMNIFICATION REQUIREMENTS.**

6 (a) INDEMNIFICATION.—A permit holder that is pro-
7 hibited by the State from providing indemnification to the
8 Federal Government shall be considered to be in compli-
9 ance with indemnification requirements of the Department
10 of the Interior and the Department of Agriculture if the
11 permit holder carries the required minimum amount of li-
12 ability insurance coverage or is self-insured for the same
13 minimum amount.

14 (b) EXCULPATORY AGREEMENTS.—The Secretary
15 shall not implement, administer or enforce any regulation
16 or policy prohibiting the use of exculpatory agreements be-
17 tween recreation service providers and their customers for
18 services provided under a special recreation permit when
19 such agreements are enforceable pursuant to the law of
20 the State in which the permitted services are provided.

21 **SEC. 9. STREAMLINING OF PERMITTING PROCESS.**

22 (a) REGULATIONS.—Not later than 180 days after
23 the date of the enactment of this Act, the Secretaries shall
24 revise part 251, subpart B, of title 36 Code of Federal
25 Regulations, and subpart 2932, of title 43, Code of Fed-

1 eral Regulations to streamline the processes for the
2 issuance and renewal of outfitter and guide special use
3 permits. Such amended regulations shall—

4 (1) shorten application processing times and
5 minimize application and administration costs; and

6 (2) provide for the use of programmatic envi-
7 ronmental assessments and categorical exclusions for
8 environmental reviews under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
10 for the issuance or renewal of outfitter and guide
11 and similar recreation special use permits, to the
12 maximum extent allowable under applicable law, in-
13 cluding, but not limited to, use of a categorical ex-
14 clusion for the issuance of a new special recreation
15 permit for activities under paragraph (2)(B) of sub-
16 section (h) of section 803 of the Federal Lands
17 Recreation Enhancement Act (16 U.S.C. 6802) that
18 have been considered under previous analysis or that
19 are similar to existing uses or are not inconsistent
20 with approved uses.

21 (b) ONLINE APPLICATIONS.—To the maximum ex-
22 tent practicable, where feasible and efficient, the Secre-
23 taries shall make special recreation permit applications
24 available to be filled out and submitted online.

1 **SEC. 10. COST RECOVERY REFORM.**

2 (a) REGULATORY PROCESS.—Not later than 180
3 days after the date of enactment of this Act, the Secre-
4 taries shall revise section 251.58 of title 36, Code of Fed-
5 eral Regulations, and section 2932.31(e) and (f) of title
6 43, Code of Federal Regulations, to reduce costs and mini-
7 mize the burden of cost recovery on small businesses and
8 adverse impacts of cost recovery on jobs in the outfitting
9 and guiding industry and on rural economies provided,
10 however, that nothing in the revised regulations shall fur-
11 ther limit the Secretaries' authority to issue or renew
12 recreation special use permits.

13 (b) DE MINIMIS EXEMPTION.—

14 (1) COST RECOVERY LIMITATION.—Any regula-
15 tions issued by the Secretary of the Interior or the
16 Secretary of Agriculture to establish fees to recover
17 processing costs for recreation special use applica-
18 tions and monitoring costs for recreation special use
19 authorizations shall include an exemption providing
20 that at least the first 50 hours of work necessary in
21 any one year to process and/or monitor such an ap-
22 plication shall not be subject to cost recovery. The
23 application of a 50-hour credit per permit shall also
24 apply to any monitoring fees on a per annum basis
25 during the term of each permit.

1 (2) APPLICATION OF EXEMPTION.—An exemp-
2 tion under paragraph (1) shall apply to the proc-
3 essing of each recreation special use permit applica-
4 tion and monitoring of each recreation special use
5 authorization for which cost recovery is required, in-
6 cluding any application or authorization requiring
7 more than 50 hours (or such other greater number
8 of hours specified for exemption) to process or mon-
9 itor. In the event that the amount of work required
10 to process such an application or monitor such an
11 authorization exceeds the specified exemption, the
12 amount of work for which cost recovery is required
13 shall be reduced by the amount of the exemption.

14 (3) MULTIPLE APPLICATIONS.—In situations
15 involving multiple recreation special use applications
16 for similar services in the same unit or area that re-
17 quire more than 50 hours (or such other greater
18 number of hours specified for exemption) in the ag-
19 gregate to process, the Secretary shall, regardless of
20 whether the applications are solicited or unsolicited
21 and whether there is competitive interest—

22 (A) determine the share of the aggregate
23 amount to be allocated to each application, on
24 an equal or prorated basis, as appropriate; and

1 (B) for each application, apply a separate
2 exemption of up to 50 hours (or such other
3 greater number of hours specified for exemp-
4 tion) to the share allocated to such application.

5 (4) COST REDUCTION.—The agency processing
6 a recreation special use application shall utilize ex-
7 isting studies and analysis to the greatest extent
8 practicable in order to reduce the amount of work
9 and cost necessary to process the application.

10 (5) LIMITATION.—The Secretary of the Interior
11 and the Secretary of Agriculture may not recover as
12 processing costs for recreation special use applica-
13 tions and monitoring costs for recreation special use
14 authorizations any costs for consultations conducted
15 under section 7 of the Endangered Species Act of
16 1973 (16 U.S.C. 1536) or for biological monitoring
17 on Federal recreational lands and waters under such
18 Act for listed, proposed, or candidate species.

19 (6) WAIVER OF COST RECOVERY.—The Sec-
20 retary of the Interior and the Secretary of Agri-
21 culture may waive the recovery of costs for proc-
22 essing recreation special use permit applications and
23 renewals, on a categorical or case-by-case basis as
24 appropriate, if the Secretary determines that—

1 (A) such costs would impose a significant
2 economic burden on any small business or cat-
3 egory of small businesses;

4 (B) such cost recovery could threaten the
5 ability of an applicant or permittee to provide,
6 in a particular area, a particular outdoor rec-
7 reational activity that is consistent with the
8 public interest and with applicable resource
9 management plans; or

10 (C) prevailing economic conditions are un-
11 favorable, such as during economic recessions,
12 or when drought, fire, or other natural disasters
13 have depressed economic activity in the area of
14 operation.

15 **SEC. 11. EXTENSION OF FOREST SERVICE RECREATION**
16 **PRIORITY USE PERMITS.**

17 Where the holder of a special use permit for outfitting
18 and guiding that authorizes priority use has submitted a
19 request for renewal of such permit in accordance with ap-
20 plicable laws and regulations, the Secretary of Agriculture
21 shall have the authority to grant the holder one or more
22 extensions of the exiting permit for additional items not
23 to exceed 5 years in the aggregate, as necessary to allow
24 the Secretary to complete the renewal process and to avoid
25 the interruption of services under such permit. Before

1 granting an extension under this section, the Secretary
2 shall take all reasonable and appropriate steps to complete
3 the renewal process before the expiration of the special
4 use permit.

○

115TH CONGRESS
1ST SESSION

H. R. 350

To exclude vehicles used solely for competition from certain provisions of the Clean Air Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2017

Mr. MCHENRY (for himself, Mr. ABRAHAM, Mr. BOST, Mr. BUCSHON, Mr. BURGESS, Mr. CARTER of Georgia, Mr. CRAMER, Ms. FOXX, Mr. GOSAR, Mr. GRIFFITH, Mr. GROTHMAN, Mr. HUDSON, Mr. HUIZENGA, Mr. JONES, Mr. LAMALFA, Mr. LOUDERMILK, Mr. MOOLENAAR, Mr. MULLIN, Mr. PITTENGER, Mr. POSEY, Mr. ROE of Tennessee, Mr. ROGERS of Alabama, Mr. ROKITA, Mr. RYAN of Ohio, Mr. WALBERG, Mrs. WALORSKI, Mrs. MIMI WALTERS of California, Mr. WESTERMAN, Mr. MCCLINTOCK, Mr. ZELDIN, Mr. NOLAN, Mr. HOLDING, Mr. BROOKS of Alabama, Mr. COOK, Mr. EMMER, Mr. RENACCI, Mr. COOPER, Mr. CUELLAR, Mr. LONG, Mr. SENSENBRENNER, Mr. BRAT, Mrs. WAGNER, Mr. TIBERI, Ms. JENKINS of Kansas, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To exclude vehicles used solely for competition from certain provisions of the Clean Air Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Recognizing the Pro-
3 tection of Motorsports Act of 2017” or the “RPM Act of
4 2017”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds that—

7 (1) at the time the Clean Air Act was written,
8 and each time the Clean Air Act has been amended,
9 the intent of Congress has been, and continues to
10 be, that vehicles manufactured for, modified for, or
11 utilized in organized motorized racing events would
12 not be encompassed by the Clean Air Act’s definition
13 of “motor vehicle”;

14 (2) when Congress sought to regulate nonroad
15 vehicles in 1990, it explicitly excluded from the defi-
16 nition of “nonroad vehicle” any vehicle used solely
17 for competition;

18 (3) despite the clear intent of Congress, the En-
19 vironmental Protection Agency has cited the Clean
20 Air Act as authority for regulating vehicles used
21 solely for competition; and

22 (4) the Environmental Protection Agency has
23 exceeded its statutory authority in its recent actions
24 to regulate vehicles used solely for competition.

1 **SEC. 3. EXCLUSION OF VEHICLES USED SOLELY FOR COM-**
2 **PETITION FROM THE ANTI-TAMPERING PRO-**
3 **VISIONS OF THE CLEAN AIR ACT.**

4 Section 203 of the Clean Air Act (42 U.S.C. 7522)
5 is amended by adding at the end of subsection (a) the fol-
6 lowing: “No action with respect to any device or element
7 of design referred to in paragraph (3) shall be treated as
8 a prohibited act under that paragraph if the action is for
9 the purpose of modifying a motor vehicle into a vehicle
10 to be used solely for competition.”.

11 **SEC. 4. EXCLUSION OF VEHICLES USED SOLELY FOR COM-**
12 **PETITION FROM THE DEFINITION OF MOTOR**
13 **VEHICLE IN THE CLEAN AIR ACT.**

14 Section 216 of the Clean Air Act (42 U.S.C. 7550)
15 is amended by striking “.” at the end of paragraph (2)
16 and inserting “and that is not a vehicle used solely for
17 competition, including any vehicle so used that was con-
18 verted from a motor vehicle.”.

19 **SEC. 5. IMPLEMENTATION.**

20 Not later than 12 months after the date of enactment
21 of this Act, the Administrator of the Environmental Pro-
22 tection Agency shall finalize any regulations necessary to
23 implement the amendments made by this Act.

○

115TH CONGRESS
1ST SESSION

H. R. 622

To terminate the law enforcement functions of the Forest Service and the Bureau of Land Management and to provide block grants to States for the enforcement of Federal law on Federal land under the jurisdiction of these agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mr. CHAFFETZ (for himself, Mr. STEWART, Mrs. LOVE, Mr. LAMALFA, Mr. AMODEI, Mr. MCCLINTOCK, and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To terminate the law enforcement functions of the Forest Service and the Bureau of Land Management and to provide block grants to States for the enforcement of Federal law on Federal land under the jurisdiction of these agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Enforcement for
5 Local Lands Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COVERED LAW ENFORCEMENT AGENCY.—

4 The term “covered law enforcement agency”
5 means—

6 (A) the Forest Service Law Enforcement
7 and Investigations unit; and

8 (B) the Bureau of Land Management Of-
9 fice of Law Enforcement.

10 (2) FEDERAL LAND.—The term “Federal land”
11 means—

12 (A) any land and interest in land owned by
13 the United States within a State and included
14 within the National Forest System, including
15 the National Grasslands; and

16 (B) the public lands (as defined in section
17 103(e) of the Federal Land Policy and Manage-
18 ment Act of 1976 (43 U.S.C. 1702(e)).

19 (3) SECRETARY CONCERNED.—The term “Sec-
20 retary concerned” means—

21 (A) the Secretary of Agriculture, with re-
22 spect to Federal land described in subpara-
23 graph (A) of paragraph (2); and

24 (B) the Secretary of the Interior, with re-
25 spect to Federal land described in subpara-
26 graph (B) of paragraph (2).

1 (4) STATE.—The term “State” means each of
 2 the several States and the Commonwealth of Puerto
 3 Rico.

4 (5) UNIT OF LOCAL GOVERNMENT.—The term
 5 “unit of local government” means—

6 (A) any city, county, township, town, bor-
 7 ough, parish, village, or other general purpose
 8 political subdivision of a State; or

9 (B) an Indian tribe which performs law en-
 10 forcement or emergency response functions as
 11 determined by the Secretary of the Interior.

12 **SEC. 3. TERMINATION OF FOREST SERVICE AND BUREAU**
 13 **OF LAND MANAGEMENT AGENCY LAW EN-**
 14 **FORCEMENT AGENCIES AND LAW ENFORCE-**
 15 **MENT FUNCTIONS.**

16 (a) FOREST SERVICE.—Not later than September 30,
 17 2017, the Secretary of Agriculture shall terminate the
 18 Forest Service Law Enforcement and Investigations unit
 19 and cease using employees of the Forest Service to per-
 20 form law enforcement functions on Federal land.

21 (b) DEPARTMENT OF THE INTERIOR.—Not later
 22 than September 30, 2017, the Secretary of the Interior
 23 shall terminate the Bureau of Land Management Office
 24 of Law Enforcement and cease using employees of the De-

1 partment of the Interior to perform law enforcement func-
2 tions on Federal land.

3 (c) TERMINATION OF AUTHORIZATION OF APPRO-
4 PRIATIONS.—Beginning with fiscal year 2018 and each
5 fiscal year thereafter, no amounts are authorized to be ap-
6 propriated to the Secretary concerned for a covered law
7 enforcement agency or for Federal law enforcement func-
8 tions on Federal land.

9 (d) NO EFFECT ON AUTHORITY TO CARRY FIRE-
10 ARMS.—Nothing in this Act shall be construed to limit the
11 authority of the Secretary concerned to authorize an em-
12 ployee of the Forest Service or the Bureau of Land Man-
13 agement to carry a firearm for protection while in the
14 field.

15 **SEC. 4. BLOCK GRANTS TO STATES FOR ENFORCEMENT OF**
16 **FEDERAL LAW ON FEDERAL LAND.**

17 (a) GRANTS REQUIRED; PURPOSE.—For fiscal year
18 2018 and each fiscal year thereafter, the Secretary of the
19 Interior shall make a grant to each State for the purpose
20 of permitting the State, directly or through subgrants with
21 units of local government in that State, to maintain law
22 and order on Federal land, protect individuals and prop-
23 erty on Federal land, and enforce Federal law. Grant
24 funds shall be used only to carry out law enforcement
25 functions on Federal land.

1 (b) DETERMINATION OF GRANT AMOUNT.—

2 (1) GRANT FORMULA.—A State shall receive a
3 grant under subsection (a) for a fiscal year in an
4 amount equal to the product of—

5 (A) the percentage determined under para-
6 graph (2) for that State; and

7 (B) the total amount appropriated to the
8 Secretary of the Interior for that fiscal year
9 pursuant to the authorization of appropriations
10 in subsection (d).

11 (2) STATE PERCENTAGE.—The percentage for a
12 State for purposes of paragraph (1) for a fiscal year
13 shall be equal to the sum of the following:

14 (A) Thirty percent of the percentage deter-
15 mined by comparing the total acreage of Fed-
16 eral land in that State at the end of the pre-
17 ceding fiscal year and the total acreage of Fed-
18 eral land in all States at the end of the pre-
19 ceding fiscal year.

20 (B) Seventy percent of the percentage de-
21 termined by comparing the total number of em-
22 ployees of the covered law enforcement agencies
23 assigned to that State as of September 30,
24 2016, and the total number of all employees of

1 the covered law enforcement agencies as of that
2 date.

3 (c) REPORT ON EXPENDITURES.—A State or unit of
4 local government receiving a grant or subgrant under this
5 section shall submit to the Secretary of the Interior an
6 annual report—

7 (1) certifying that the grant funds were used
8 only for the Federal land law enforcement functions
9 specified in subsection (a);

10 (2) accounting for all expenditures incurred by
11 the State or unit of local government in connection
12 with performing such law enforcement functions on
13 Federal land; and

14 (3) indicating whether grant funds were suffi-
15 cient or insufficient to cover such expenditures.

16 (d) AUTHORIZATION OF APPROPRIATIONS.—On ac-
17 count of the reduced costs to be incurred by the Secretary
18 concerned as a result of the termination of the covered
19 law enforcement agencies, for fiscal year 2018 and each
20 fiscal year thereafter, there is authorized to be appro-
21 priated to the Secretary of the Interior to make grants
22 under this section—

23 (1) an amount equal to seven percent of the
24 Forest Service budget for fiscal year 2016;

1 (2) an amount equal to five percent of the Bu-
2 reau of Land Management budget for fiscal year
3 2016; and

4 (3) such additional amounts as the Secretary
5 concerned considers to be necessary for law enforce-
6 ment functions on Federal land for a fiscal year, to
7 be included in the materials submitted to Congress
8 by the Secretary concerned in support of the budget
9 of the President for that fiscal year under section
10 1105(a) of title 31, United States Code.

11 **SEC. 5. STATE AND LOCAL AGREEMENTS FOR LAW EN-**
12 **FORCEMENT FUNCTIONS ON FEDERAL LAND.**

13 (a) AGREEMENT REQUIRED.—As a condition of a
14 grant or subgrant under section 4, the State or unit of
15 local government receiving the grant or subgrant and the
16 Secretary concerned shall enter into an agreement, con-
17 sistent with this section, to address the maintenance of
18 law and order and the protection of individuals and prop-
19 erty on Federal land.

20 (b) POWERS AND DUTIES OF LAW ENFORCEMENT
21 PERSONNEL.—The agreement under subsection (a) be-
22 tween a State or unit of local government receiving a grant
23 or subgrant and the Secretary concerned shall authorize
24 designated law enforcement officers of the State or unit
25 of local government—

1 (1) to carry firearms on Federal land;

2 (2) make arrests without warrant for any of-
3 fense against the United States committed in the
4 presence of the law enforcement officer, or for any
5 felony cognizable under the laws of the United
6 States if the law enforcement officer has reasonable
7 grounds to believe that the individual to be arrested
8 has committed or is committing the felony, provided
9 the arrests occur on Federal land or within the State
10 or local jurisdiction of the law enforcement officer or
11 the individual to be arrested is fleeing from the Fed-
12 eral land;

13 (3) execute any warrant or other process issued
14 by a court or officer of competent jurisdiction for
15 the enforcement of the provisions of any Federal law
16 or regulation issued pursuant to law arising out of
17 an offense committed on Federal land or, where the
18 individual subject to the warrant or process is on
19 Federal land, in connection with any Federal of-
20 fense; and

21 (4) conduct investigations of offenses against
22 the United States committed on Federal land in the
23 absence of investigation of the offenses by any other
24 Federal law enforcement agency having investigative

1 jurisdiction over the offense committed or with the
2 concurrence of the other agency.

3 (c) INDEMNIFY AND SAVE HARMLESS.—The Sec-
4 retary concerned shall waive, in any agreement under sub-
5 section (a) with a State or unit of local government, all
6 civil claims against the State or unit of local government
7 and, subject to available appropriations, indemnify and
8 save harmless the State or unit of local government from
9 all claims by third parties for property damage or personal
10 injury, that may arise out of law enforcement functions
11 performed under the agreement.

12 (d) LAW ENFORCEMENT PERSONNEL NOT DEEMED
13 FEDERAL EMPLOYEES.—

14 (1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, a law enforcement officer of
16 a State or unit of local government performing law
17 enforcement functions pursuant to an agreement
18 under subsection (a) shall not be deemed a Federal
19 employee and shall not be subject to the provisions
20 of law relating to Federal employment, including
21 those relating to hours of work, rates of compensa-
22 tion, leave, unemployment compensation, and Fed-
23 eral benefits.

24 (2) EXCEPTIONS.—A law enforcement officer of
25 a State or unit of local government performing law

1 enforcement functions pursuant to an agreement
2 under subsection (a) is deemed to be—

3 (A) a Federal employee for purposes of
4 sections 1346(b) and 2401(b) and chapter 171
5 of title 28, United States Code; and

6 (B) a civil service employee of the United
7 States within the meaning of the term “em-
8 ployee” as defined in section 8101 of title 5,
9 United States Code, for purposes of subchapter
10 I of chapter 81 of such title, relating to com-
11 pensation to Federal employees for work inju-
12 ries, and the provisions of subchapter I of chap-
13 ter 81 of such title shall apply.

14 (e) FEDERAL INVESTIGATIVE JURISDICTION AND
15 STATE CIVIL AND CRIMINAL JURISDICTION NOT PRE-
16 EMPTED.—This section shall not be construed or ap-
17 plied—

18 (1) to limit or restrict the investigative jurisdic-
19 tion of any Federal law enforcement agency other
20 than a covered law enforcement agency; and

21 (2) to affect any right of a State or unit of local
22 government to exercise civil and criminal jurisdiction
23 on Federal land.

24 (f) CONFORMING AMENDMENTS.—

1 (1) FOREST SERVICE.—Section 15003 of the
2 National Forest System Drug Control Act of 1986
3 (16 U.S.C. 559c) is repealed.

4 (2) BUREAU OF LAND MANAGEMENT.—Section
5 303(c)(2) of the Federal Land Policy and Manage-
6 ment Act of 1976 (43 U.S.C. 1733(c)(2)) is amend-
7 ed by striking “may authorize Federal personnel or”
8 and inserting “shall authorize”.

○

115TH CONGRESS
1ST SESSION

H. R. 827

To establish certain conservation and recreation areas in the State of California, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2017

Mr. VARGAS introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To establish certain conservation and recreation areas in the State of California, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Imperial Valley Desert
5 Conservation and Recreation Act”.

6 **SEC. 2. TRANSFER OF LAND TO ANZA-BORREGO DESERT**
7 **STATE PARK, CALIFORNIA.**

8 (a) IN GENERAL.—On termination of all mining
9 claims to the land described in paragraph (2), the Sec-

1 retary shall transfer the land described in that paragraph
2 to the State.

3 (b) DESCRIPTION OF LAND.—The land referred to in
4 paragraph (1) is certain Bureau of Land Management
5 land in San Diego County, California, comprising approxi-
6 mately 934 acres, as generally depicted on the map enti-
7 tled “Table Mountain Wilderness Study Area Proposed
8 Transfer to the State” and dated March 17, 2015.

9 (c) MANAGEMENT.—

10 (1) IN GENERAL.—The land transferred under
11 paragraph (1) shall be managed in accordance with
12 the provisions of the California Wilderness Act (Cali-
13 fornia Public Resources Code sections 5093.30–
14 5093.40).

15 (2) WITHDRAWAL.—Subject to valid existing
16 rights, the land transferred under paragraph (1) is
17 withdrawn from—

18 (A) all forms of entry, appropriation, or
19 disposal under the public land laws;

20 (B) location, entry, and patent under the
21 mining laws; and

22 (C) disposition under all laws relating to
23 mineral and geothermal leasing.

24 (3) REVERSION.—If the State ceases to manage
25 the land transferred under paragraph (1) as part of

1 the State Park System or in a manner inconsistent
2 with the California Wilderness Act (California Public
3 Resources Code sections 5093.30–5093.40), the land
4 shall revert to the Secretary at the discretion of the
5 Secretary, to be managed as a Wilderness Study
6 Area.

7 **SEC. 3. HOLTVILLE AIRPORT, IMPERIAL COUNTY.**

8 (a) IN GENERAL.—On the submission of an applica-
9 tion by Imperial County, California, the Secretary of
10 Transportation shall, in accordance with section 47125 of
11 title 49, United States Code, and section 2641.1 of title
12 43, Code of Federal Regulations (or successor regulations)
13 seek a conveyance from the Secretary of approximately
14 3,500 acres of Bureau of Land Management land adjacent
15 to the Imperial County Holtville Airport (L04) for the
16 purposes of airport expansion.

17 (b) SEGREGATION.—The Secretary (acting through
18 the Director of the Bureau of Land Management) shall,
19 with respect to the land to be conveyed under subsection
20 (a)—

21 (1) segregate the land;

22 (2) endeavor to develop a joint Memorandum of
23 Understanding with the Imperial County Board of
24 Supervisors, the Department of Defense, and the
25 Department of Transportation; such an agreement

1 shall not impose any obligation, term, or condition
2 on the property owned by Imperial County; and

3 (3) prohibit the appropriation of the land
4 until—

5 (A) the date on which a joint Memo-
6 randum of Understanding is signed by the par-
7 ties listed in paragraph (2);

8 (B) the date on which a notice of realty ac-
9 tion terminates the application; and

10 (C) the date on which a document of con-
11 veyance is published.

12 **SEC. 4. VINAGRE WASH SPECIAL MANAGEMENT AREA.**

13 (a) ESTABLISHMENT.—There is established the
14 Vinagre Wash Special Management Area in the State, to
15 be managed by the El Centro Field Office and the Yuma
16 Field Office of the Bureau of Land Management.

17 (b) PURPOSE.—The purpose of the Management
18 Area is to conserve, protect, and enhance—

19 (1) the plant and wildlife values of the Manage-
20 ment Area; and

21 (2) the outstanding and nationally significant
22 ecological, geological, scenic, recreational, archae-
23 ological, cultural, historic, and other resources of the
24 Management Area.

1 (c) BOUNDARIES.—The Management Area shall con-
2 sist of the public land in Imperial County, California, com-
3 prising approximately 81,880 acres, as generally depicted
4 on the map.

5 (d) MAP; LEGAL DESCRIPTION.—

6 (1) IN GENERAL.—As soon as practicable, but
7 not later than 3 years, after the date of enactment
8 of this title, the Secretary shall submit a map and
9 legal description of the Management Area to—

10 (A) the Committee on Natural Resources
11 of the House of Representatives; and

12 (B) the Committee on Energy and Natural
13 Resources of the Senate.

14 (2) EFFECT.—The map and legal description
15 submitted under paragraph (1) shall have the same
16 force and effect as if included in this title, except
17 that the Secretary may correct any errors in the
18 map and legal description.

19 (3) AVAILABILITY.—Copies of the map sub-
20 mitted under paragraph (1) shall be on file and
21 available for public inspection in—

22 (A) the Office of the Director of the Bu-
23 reau of Land Management; and

24 (B) the appropriate office of the Bureau of
25 Land Management in the State.

1 **SEC. 5. MANAGEMENT.**

2 (a) IN GENERAL.—The Secretary shall allow hiking,
3 camping, hunting, and sightseeing and the use of motor-
4 ized vehicles, mountain bikes, and horses on designated
5 routes in the Management Area in a manner that—

6 (1) is consistent with the purpose of the Man-
7 agement Area described in section 4(b);

8 (2) ensures public health and safety; and

9 (3) is consistent with applicable laws and regu-
10 lations, including the Desert Renewable Energy Con-
11 servation Plan.

12 (b) OFF-HIGHWAY VEHICLE USE.—

13 (1) IN GENERAL.—Subject to paragraphs (2)
14 and (3) and all other applicable laws, the use of off-
15 highway vehicles shall be permitted on routes in the
16 Management Area generally depicted on the map.

17 (2) CLOSURE.—The Secretary may temporarily
18 close or permanently reroute a portion of a route de-
19 scribed in paragraph (1)—

20 (A) to prevent, or allow for restoration of,
21 resource damage;

22 (B) to protect tribal cultural resources, in-
23 cluding the resources identified in the tribal cul-
24 tural resources management plan;

25 (C) to address public safety concerns; or

26 (D) as otherwise required by law.

1 (3) DESIGNATION OF ADDITIONAL ROUTES.—

2 During the 3-year period beginning on the date of
3 enactment of this title, the Secretary—

4 (A) shall accept petitions from the public
5 regarding additional routes for off-highway ve-
6 hicles; and

7 (B) may designate additional routes that
8 the Secretary determines—

9 (i) would provide significant or unique
10 recreational opportunities; and

11 (ii) are consistent with the purposes
12 of the Management Area.

13 (c) WITHDRAWAL.—Subject to valid existing rights,
14 all Federal land within the Management Area is with-
15 drawn from—

16 (1) all forms of entry, appropriation, or disposal
17 under the public land laws;

18 (2) location, entry, and patent under the mining
19 laws; and

20 (3) right-of-way, leasing, or disposition under
21 all laws relating to—

22 (A) minerals; or

23 (B) solar, wind, and geothermal energy.

24 (d) NO BUFFERS.—The establishment of the Man-
25 agement Area shall not—

1 (1) create a protective perimeter or buffer zone
2 around the Management Area; or

3 (2) preclude uses or activities outside the Man-
4 agement Area that are permitted under other appli-
5 cable laws, even if the uses or activities are prohib-
6 ited within the Management Area.

7 (e) NOTICE OF AVAILABLE ROUTES.—The Secretary
8 shall ensure that visitors to the Management Area have
9 access to adequate notice relating to the availability of des-
10 ignated routes in the Management Area through—

11 (1) the placement of appropriate signage along
12 the designated routes;

13 (2) the distribution of maps, safety education
14 materials, and other information that the Secretary
15 determines to be appropriate; and

16 (3) restoration of areas that are not designated
17 as open routes, including vertical mulching.

18 (f) STEWARDSHIP.—The Secretary, in consultation
19 with Indian tribes and other interests, shall develop a pro-
20 gram to provide opportunities for monitoring and steward-
21 ship of the Management Area to minimize environmental
22 impacts and prevent resource damage from recreational
23 use, including volunteer assistance with—

24 (1) route signage;

25 (2) restoration of closed routes;

- 1 (3) protection of Management Area resources;
2 and
3 (4) recreation education.

4 (g) PROTECTION OF TRIBAL CULTURAL RE-
5 SOURCES.—Not later than 2 years after the date of enact-
6 ment of this title, the Secretary, in accordance with chap-
7 ter 2003 of title 54, United States Code, and any other
8 applicable law, shall—

9 (1) prepare and complete a tribal cultural re-
10 sources survey of the Management Area; and

11 (2) consult with the Quechan Indian Nation
12 and other Indian tribes demonstrating ancestral, cul-
13 tural, or other ties to the resources within the Man-
14 agement Area on the development and implementa-
15 tion of the tribal cultural resources survey under
16 paragraph (1).

17 **SEC. 6. POTENTIAL WILDERNESS.**

18 (a) PROTECTION OF WILDERNESS CHARACTER.—

19 (1) IN GENERAL.—The Secretary shall manage
20 the Federal land in the Management Area described
21 in paragraph (2) in a manner that preserves the
22 character of the land for the eventual inclusion of
23 the land in the National Wilderness Preservation
24 System.

1 (2) DESCRIPTION OF LAND.—The Federal land
2 described in this paragraph is—

3 (A) the approximately 10,860 acres of
4 land, as generally depicted as the Indian Pass
5 Additions on the map entitled “Vinagre Wash
6 Proposed Special Management Area” and dated
7 November 10, 2009;

8 (B) the approximately 17,250 acres of
9 land, as generally depicted as Milpitas Wash
10 Potential Wilderness on the map entitled
11 “Vinagre Wash Proposed Special Management
12 Area” and dated November 10, 2009;

13 (C) the approximately 11,840 acres of
14 land, as generally depicted as Buzzards Peak
15 Potential Wilderness on the map entitled
16 “Vinagre Wash Proposed Special Management
17 Area” and dated November 10, 2009; and

18 (D) the approximately 9,350 acres of land,
19 as generally depicted as Palo Verde Mountains
20 Potential Wilderness on the map entitled
21 “Vinagre Wash Proposed Special Management
22 Area” and dated November 10, 2009.

23 (3) USE OF LAND.—

24 (A) MILITARY USES.—The Secretary shall
25 manage the Federal land in the Management

1 Area described in paragraph (2) in a manner
2 that is consistent with the Wilderness Act (16
3 U.S.C. 1131 et seq.), except that the Secretary
4 may authorize use of the land by the Secretary
5 of the Navy for Naval Special Warfare Tactical
6 Training, including long-range small unit train-
7 ing and navigation, vehicle concealment, and ve-
8 hicle sustainment training, in accordance with
9 applicable Federal laws.

10 (B) PROHIBITED USES.—The following
11 shall be prohibited on the Federal land de-
12 scribed in paragraph (2):

13 (i) Permanent roads.

14 (ii) Commercial enterprises.

15 (iii) Except as necessary to meet the
16 minimum requirements for the administra-
17 tion of the Federal land and to protect
18 public health and safety—

19 (I) the use of mechanized vehi-
20 cles; and

21 (II) the establishment of tem-
22 porary roads.

23 (4) WILDERNESS DESIGNATION.—

24 (A) IN GENERAL.—The Federal land de-
25 scribed in paragraph (2) shall be designated as

1 wilderness and as a component of the National
2 Wilderness Preservation System on the date on
3 which the Secretary, in consultation with the
4 Secretary of Defense, publishes a notice in the
5 Federal Register that all activities on the Fed-
6 eral land that are incompatible with the Wilder-
7 ness Act (16 U.S.C. 1131 et seq.) have termi-
8 nated.

9 (B) DESIGNATION.—On designation of the
10 Federal land under clause (i)—

11 (i) the land described in paragraph
12 (2)(A) shall be incorporated in, and shall
13 be considered to be a part of, the Indian
14 Pass Wilderness;

15 (ii) the land described in paragraph
16 (2)(B) shall be designated as the “Milpitas
17 Wash Wilderness”;

18 (iii) the land described in paragraph
19 (2)(C) shall be designated as the “Buzzard
20 Peak Wilderness”; and

21 (iv) the land described in paragraph
22 (2)(D) shall be incorporated in, and shall
23 be considered to be a part of, the Palo
24 Verde Mountains Wilderness.

1 (b) ADMINISTRATION OF WILDERNESS.—Subject to
2 valid existing rights, the land designated as wilderness or
3 as a wilderness addition by this title shall be administered
4 by the Secretary in accordance with this Act and the Wil-
5 derness Act (16 U.S.C. 1131 et seq.).

6 **SEC. 7. DEFINITIONS.**

7 In this Act:

8 (1) MANAGEMENT AREA.—The term “Manage-
9 ment Area” means the Vinagre Wash Special Man-
10 agement Area.

11 (2) MAP.—The term “map” means the map en-
12 titled “Vinagre Wash Proposed Special Management
13 Area; Indian Pass Mountains and Palo Verde Moun-
14 tains Potential Wilderness Additions, and Buzzards
15 Peak, Milpitas Wash Potential Wilderness” and
16 dated February 19, 2015.

17 (3) PUBLIC LAND.—The term “public land”
18 has the meaning given the term “public lands” in
19 section 103 of the Federal Land Policy and Manage-
20 ment Act of 1976 (43 U.S.C. 1702).

21 (4) SECRETARY.—The term “Secretary” means
22 the Secretary of the Interior.

23 (5) STATE.—The term “State” means the State
24 of California.

○

115TH CONGRESS
1ST SESSION

H. R. 857

To provide for conservation and enhanced recreation activities in the California Desert Conservation Area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2017

Mr. COOK introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide for conservation and enhanced recreation activities in the California Desert Conservation Area, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “California Off-Road Recreation and Conservation Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. California Off-Road Recreation and Conservation.
- Sec. 3. Visitor center.
- Sec. 4. California State school land.

Sec. 5. Designation of wild and scenic rivers.

Sec. 6. Conforming amendments.

1 **SEC. 2. CALIFORNIA OFF-ROAD RECREATION AND CON-**
 2 **SERVATION.**

3 Public Law 103–433 (16 U.S.C. 410aaa et seq.) is
 4 amended by adding at the end the following:

5 **“TITLE XIII—WILDERNESS**

6 **“SEC. 1301. DESIGNATION OF WILDERNESS AREAS.**

7 “(a) DESIGNATION OF WILDERNESS AREAS TO BE
 8 ADMINISTERED BY THE BUREAU OF LAND MANAGE-
 9 MENT.—In accordance with the Wilderness Act (16 U.S.C.
 10 1131 et seq.) and sections 601 and 603 of the Federal
 11 Land Policy and Management Act of 1976 (43 U.S.C.
 12 1781, 1782), the following land in the State is designated
 13 as wilderness areas and as components of the National
 14 Wilderness Preservation System:

15 “(1) AVAWATZ MOUNTAINS WILDERNESS.—Cer-
 16 tain land in the Conservation Area administered by
 17 the Director of the Bureau of Land Management,
 18 comprising approximately 91,800 acres, as generally
 19 depicted on the map entitled ‘Avawatz Mountains
 20 Proposed Wilderness’ and dated June 30, 2015, to
 21 be known as the ‘Avawatz Mountains Wilderness’.

22 “(2) GOLDEN VALLEY WILDERNESS.—Certain
 23 land in the Conservation Area administered by the
 24 Director of the Bureau of Land Management, com-

prising approximately 1,250 acres, as generally depicted on the map entitled ‘Golden Valley Proposed Wilderness Additions’ and dated June 22, 2015, which shall be considered to be part of the ‘Golden Valley Wilderness’.

“(3) GREAT FALLS BASIN WILDERNESS.—

“(A) IN GENERAL.—Certain land in the Conservation Area administered by the Director of the Bureau of Land Management, comprising approximately 7,870 acres, as generally depicted on the map entitled ‘Great Falls Basin Proposed Wilderness’ and dated April 29, 2015, to be known as the ‘Great Falls Basin Wilderness’.

“(B) LIMITATIONS.—Designation of the wilderness under subparagraph (A) shall not establish a Class I Airshed under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(4) KINGSTON RANGE WILDERNESS.—Certain land in the Conservation Area administered by the Bureau of Land Management, comprising approximately 53,320 acres, as generally depicted on the map entitled ‘Kingston Range Proposed Wilderness Additions’ and dated February 18, 2015, which shall

1 be considered to be a part of as the ‘Kingston Range
2 Wilderness’.

3 “(5) SODA MOUNTAINS WILDERNESS.—Certain
4 land in the Conservation Area, administered by the
5 Bureau of Land Management, comprising approxi-
6 mately 79,990 acres, as generally depicted on the
7 map entitled ‘Soda Mountains Proposed Wilderness’
8 and dated February 18, 2015, to be known as the
9 ‘Soda Mountains Wilderness’.

10 “(b) DESIGNATION OF WILDERNESS AREAS TO BE
11 ADMINISTERED BY THE NATIONAL PARK SERVICE.—In
12 accordance with the Wilderness Act (16 U.S.C. 1131 et
13 seq.) and sections 601 and 603 of the Federal Land Policy
14 and Management Act of 1976 (43 U.S.C. 1781, 1782),
15 the following land in the State is designated as wilderness
16 areas and as components of the National Wilderness Pres-
17 ervation System:

18 “(1) DEATH VALLEY NATIONAL PARK WILDER-
19 NESS ADDITIONS-NORTH EUREKA VALLEY.—Certain
20 land in the Conservation Area administered by the
21 Director of the National Park Service, comprising
22 approximately 11,496 acres, as generally depicted on
23 the map entitled ‘Death Valley National Park Pro-
24 posed Wilderness Area-North Eureka Valley’, num-
25 bered 143/100,082C, and dated October 7, 2014,

1 which shall be considered to be a part of the Death
2 Valley National Park Wilderness.

3 “(2) DEATH VALLEY NATIONAL PARK WILDER-
4 NESS ADDITIONS-IBEX.—Certain land in the Con-
5 servation Area administered by the Director of the
6 National Park Service, comprising approximately
7 23,650 acres, as generally depicted on the map enti-
8 tled ‘Death Valley National Park Proposed Wilder-
9 ness Area-Ibex’, numbered 143/100,081C, and dated
10 October 7, 2014, which shall be considered to be a
11 part of the Death Valley National Park Wilderness.

12 “(3) DEATH VALLEY NATIONAL PARK WILDER-
13 NESS ADDITIONS-PANAMINT VALLEY.—Certain land
14 in the Conservation Area administered by the Direc-
15 tor of the National Park Service, comprising ap-
16 proximately 4,807 acres, as generally depicted on the
17 map entitled ‘Death Valley National Park Proposed
18 Wilderness Area-Panamint Valley’, numbered 143/
19 100,083C, and dated October 7, 2014, which shall
20 be considered to be a part of the Death Valley Na-
21 tional Park Wilderness.

22 “(4) DEATH VALLEY NATIONAL PARK WILDER-
23 NESS ADDITIONS-WARM SPRINGS.—Certain land in
24 the Conservation Area administered by the Director
25 of the National Park Service, comprising approxi-

1 mately 10,485 acres, as generally depicted on the
2 map entitled ‘Death Valley National Park Proposed
3 Wilderness Area-Warm Spring Canyon/Galena Can-
4 yon’, numbered 143/100,084C, and dated October 7,
5 2014, which shall be considered to be a part of the
6 Death Valley National Park Wilderness.

7 “(5) DEATH VALLEY NATIONAL PARK WILDER-
8 NESS ADDITIONS-AXE HEAD.—Certain land in the
9 Conservation Area administered by the Director of
10 the National Park Service, comprising approximately
11 8,638 acres, as generally depicted on the map enti-
12 tled ‘Death Valley National Park Proposed Wilder-
13 ness Area-Axe Head’, numbered 143/100,085C, and
14 dated October 7, 2014, which shall be considered to
15 be a part of the Death Valley National Park Wilder-
16 ness.

17 “(6) DEATH VALLEY NATIONAL PARK WILDER-
18 NESS ADDITIONS-BOWLING ALLEY.—Certain land in
19 the Conservation Area administered by the Director
20 of the Bureau of Land Management, comprising ap-
21 proximately 28,923 acres, as generally depicted on
22 the map entitled ‘Death Valley National Park Pro-
23 posed Wilderness Area-Bowling Alley’, numbered
24 143/128,606, and dated May 14, 2015, which shall

1 be considered to be a part of the Death Valley Na-
2 tional Park Wilderness.

3 “(c) DESIGNATION OF WILDERNESS AREA TO BE
4 ADMINISTERED BY THE FOREST SERVICE.—

5 “(1) IN GENERAL.—In accordance with the Wil-
6 derness Act (16 U.S.C. 1131 et seq.), the land in
7 the State described in paragraph (2) is designated
8 as a wilderness area and as a component of the Na-
9 tional Wilderness Preservation System.

10 “(2) DESCRIPTION OF LAND.—The land re-
11 ferred to in paragraph (1) is certain land in the San
12 Bernardino National Forest, comprising approxi-
13 mately 7,141 acres, as generally depicted on the
14 map entitled ‘San Gorgonio Proposed Wilderness
15 Expansion,’ dated November 2, 2016, which shall
16 considered to be a part of the San Gorgonio Wilder-
17 ness.

18 “(3) FIRE MANAGEMENT AND RELATED ACTIVI-
19 TIES.—

20 “(A) IN GENERAL.—The Secretary may
21 carry out such activities in the wilderness area
22 designated by paragraph (1) as are necessary
23 for the control of fire, insects, and disease, in
24 accordance with section 4(d)(1) of the Wilder-

1 ness Act (16 U.S.C. 1133(d)(1)) and House
2 Report 98–40 of the 98th Congress.

3 “(B) FUNDING PRIORITIES.—Nothing in
4 this subsection limits the provision of any fund-
5 ing for fire or fuel management in the wilder-
6 ness area designated by paragraph (1).

7 “(C) REVISION AND DEVELOPMENT OF
8 LOCAL FIRE MANAGEMENT PLANS.—As soon as
9 practicable after the date of enactment of this
10 title, the Secretary shall amend the local fire
11 management plans that apply to the wilderness
12 area designated by paragraph (1).

13 “(D) ADMINISTRATION.—In accordance
14 with subparagraph (A) and other applicable
15 Federal law, to ensure a timely and efficient re-
16 sponse to fire emergencies in the wilderness
17 area designated by paragraph (1), the Secretary
18 shall—

19 “(i) not later than 1 year after the
20 date of enactment of this title, establish
21 agency approval procedures (including ap-
22 propriate delegations of authority to the
23 Forest Supervisor, District Manager, or
24 other agency officials) for responding to

1 fire emergencies in the wilderness area des-
2 ignated by paragraph (1); and
3 “(ii) enter into agreements with ap-
4 propriate State or local firefighting agen-
5 cies relating to that wilderness area.

6 **“SEC. 1302. MANAGEMENT.**

7 “(a) ADJACENT MANAGEMENT.—

8 “(1) IN GENERAL.—Nothing in this title creates
9 any protective perimeter or buffer zone around the
10 wilderness areas designated by section 1301.

11 “(2) ACTIVITIES OUTSIDE WILDERNESS
12 AREAS.—

13 “(A) IN GENERAL.—The fact that an ac-
14 tivity (including military activities) or use on
15 land outside a wilderness area designated by
16 section 1301 can be seen or heard within the
17 wilderness area shall not preclude or restrict
18 the activity or use outside the boundary of the
19 wilderness area.

20 “(B) EFFECT ON NONWILDERNESS ACTIVI-
21 TIES.—

22 “(i) IN GENERAL.—In any permitting
23 proceeding (including a review under the
24 National Environmental Policy Act of
25 1969 (42 U.S.C. 4321 et seq.)) conducted

1 with respect to a project described in
2 clause (ii) that is formally initiated
3 through a notice in the Federal Register
4 before December 31, 2013, the consider-
5 ation of any visual, noise, or other impacts
6 of the project on a wilderness area des-
7 ignated by section 1301 shall be conducted
8 based on the status of the area before des-
9 ignation as wilderness.

10 “(ii) DESCRIPTION OF PROJECTS.—A
11 project referred to in clause (i) is a renew-
12 able energy project or associated energy
13 transport facility project—

14 “(I) for which the Bureau of
15 Land Management has received a
16 right-of-way use application on or be-
17 fore the date of enactment of this
18 title; and

19 “(II) that is located outside the
20 boundary of a wilderness area des-
21 ignated by section 1301.

22 “(3) NO ADDITIONAL REGULATION.—Nothing
23 in this title requires additional regulation of activi-
24 ties on land outside the boundary of the wilderness
25 areas.

1 “(4) EFFECT ON MILITARY OPERATIONS.—
2 Nothing in this title alters any authority of the Sec-
3 retary of Defense to conduct any military operations
4 at desert installations, facilities, and ranges of the
5 State that are authorized under any other provision
6 of law.

7 “(5) EFFECT ON UTILITY FACILITIES AND
8 RIGHTS-OF-WAY.—

9 “(A) IN GENERAL.—Subject to paragraph
10 (2), nothing in this title terminates or precludes
11 the renewal or reauthorization of any valid ex-
12 isting right-of-way or customary operation,
13 maintenance, repair, upgrading, or replacement
14 activities in a right-of-way, issued, granted, or
15 permitted to the Southern California Edison
16 Company or predecessors, successors, or assigns
17 of the Southern California Edison Company
18 that is located on land included in the San
19 Gorgonio Wilderness Area or the Sand to Snow
20 National Monument.

21 “(B) LIMITATION.—The activities de-
22 scribed in subparagraph (A) shall be conducted
23 in a manner that minimizes the impact of the
24 activities resources of the San Gorgonio Wilder-

1 ness Area or the Sand to Snow National Monu-
2 ment.

3 “(C) APPLICABLE LAW.—In accordance
4 with the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.), any approval re-
6 quired for an increase in the voltage of the
7 Coachella distribution circuit shall require con-
8 sideration of alternative alignments, including
9 alignments adjacent to State Route 62.

10 “(b) MAPS; LEGAL DESCRIPTIONS.—

11 “(1) IN GENERAL.—As soon as practicable
12 after the date of enactment of this title, the Sec-
13 retary shall file a map and legal description of each
14 wilderness area and wilderness addition designated
15 by section 1301 with—

16 “(A) the Committee on Natural Resources
17 of the House of Representatives; and

18 “(B) the Committee on Energy and Nat-
19 ural Resources of the Senate.

20 “(2) FORCE OF LAW.—A map and legal de-
21 scription filed under paragraph (1) shall have the
22 same force and effect as if included in this title, ex-
23 cept that the Secretary may correct errors in the
24 maps and legal descriptions.

1 “(3) PUBLIC AVAILABILITY.—Each map and
2 legal description filed under paragraph (1) shall be
3 filed and made available for public inspection in the
4 appropriate office of the Secretary.

5 “(c) ADMINISTRATION.—Subject to valid existing
6 rights, the land designated as wilderness or as a wilder-
7 ness addition by section 1301 shall be administered by the
8 Secretary in accordance with this Act and the Wilderness
9 Act (16 U.S.C. 1131 et seq.), except that any reference
10 in that Act to the effective date shall be considered to be
11 a reference to the date of enactment of this title.

12 **“SEC. 1303. RELEASE OF WILDERNESS STUDY AREAS.**

13 “(a) FINDING.—Congress finds that, for purposes of
14 section 603 of the Federal Land Policy and Management
15 Act of 1976 (43 U.S.C. 1782), any portion of a wilderness
16 study area described in subsection (b) that is not des-
17 ignated as a wilderness area or wilderness addition by sec-
18 tion 1301 or any other Act enacted before the date of en-
19 actment of this title has been adequately studied for wil-
20 derness.

21 “(b) DESCRIPTION OF STUDY AREAS.—The study
22 areas referred to in subsection (a) are—

23 “(1) the Cady Mountains Wilderness Study
24 Area;

1 “(2) the Kingston Range Wilderness Study
2 Area;

3 “(3) the Avawatz Mountain Wilderness Study
4 Area;

5 “(4) the Death Valley National Park Boundary
6 and Wilderness 17 Wilderness Study Area;

7 “(5) the Great Falls Basin Wilderness Study
8 Area; and

9 “(6) the Soda Mountains Wilderness Study
10 Area.

11 “(c) RELEASE.—Any portion of a wilderness study
12 area described in subsection (b) that is not designated as
13 a wilderness area or wilderness addition by section 1301
14 is no longer subject to section 603(c) of the Federal Land
15 Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

16 **“SEC. 1304. TREATMENT OF CHERRY-STEMMED ROADS.**

17 “(a) DEFINITION OF CHERRY-STEMMED ROAD.—In
18 this section, the term ‘cherry-stemmed road’ means a road
19 or trail that is excluded from a wilderness area or wilder-
20 ness addition designated by section 202 by a non-wilder-
21 ness corridor having designated wilderness on both sides,
22 as generally depicted on the maps described in such sec-
23 tion.

1 “(b) PROHIBITION ON CLOSURE OR TRAVEL RE-
2 STRICTIONS ON CHERRY-STEMMED ROADS.—The Sec-
3 retary concerned shall not—

4 “(1) close any cherry-stemmed road that is
5 open to the public as of the date of the enactment
6 of this Act;

7 “(2) prohibit motorized access on a cherry-
8 stemmed road that is open to the public for motor-
9 ized access as of the date of the enactment of this
10 Act; or

11 “(3) prohibit mechanized access on a cherry-
12 stemmed road that is open to the public for mecha-
13 nized access as of the date of the enactment of this
14 Act.

15 “(c) RESOURCE PROTECTION OR PUBLIC SAFETY
16 EXCEPTIONS.—Subsection (b) shall not apply to a cherry-
17 stemmed road if the Secretary concerned determines that
18 a closure or traffic restriction of the cherry-stemmed road
19 is necessary for purposes of significant resource protection
20 or public safety.

1 **“TITLE XIV—NATIONAL PARK**
2 **SYSTEM ADDITIONS**

3 **“SEC. 1401. DEATH VALLEY NATIONAL PARK BOUNDARY RE-**
4 **VISION.**

5 “(a) IN GENERAL.—The boundary of Death Valley
6 National Park is adjusted to include—

7 “(1) the approximately 28,923 acres of Bureau
8 of Land Management land in Inyo County, Cali-
9 fornia, abutting the southern end of the Death Val-
10 ley National Park that lies between Death Valley
11 National Park to the north and Ft. Irwin Military
12 Reservation to the south and which runs approxi-
13 mately 34 miles from west to east, as depicted on
14 the map entitled ‘Death Valley National Park Pro-
15 posed Boundary Addition-Bowling Alley’, numbered
16 143/128,605, and dated May 14, 2015; and

17 “(2) the approximately 6,369 acres of Bureau
18 of Land Management land in Inyo County, Cali-
19 fornia, located in the northeast area of Death Valley
20 National Park that is within, and surrounded by,
21 land under the jurisdiction of the Director of the
22 National Park Service, as depicted on the map enti-
23 tled ‘Death Valley National Park Proposed Bound-
24 ary Addition-Crater’, numbered 143/100,079C, and
25 dated October 7, 2014.

1 “(b) AVAILABILITY OF MAP.—The maps described in
2 paragraphs (1) and (2) of subsection (a) shall be on file
3 and available for public inspection in the appropriate of-
4 fices of the National Park Service.

5 “(c) ADMINISTRATION.—The Secretary of the Inte-
6 rior (referred to in this title as the ‘Secretary’) shall—

7 “(1) administer any land added to Death Valley
8 National Park under subsection (a)—

9 “(A) as part of Death Valley National
10 Park; and

11 “(B) in accordance with applicable laws
12 (including regulations); and

13 “(2) not later than 180 days after the date of
14 enactment of this Act, enter into a memorandum of
15 understanding with Inyo County, California, to per-
16 mit operationally feasible, ongoing access and use
17 (including, but not limited to, material storage as
18 well as excavation) to gravel pits in existence as of
19 that date along Saline Valley Road within Death
20 Valley National Park for road maintenance and re-
21 pairs in accordance with applicable laws (including
22 regulations).

23 **“SEC. 1402. MOJAVE NATIONAL PRESERVE.**

24 “The boundary of the Mojave National Preserve is
25 adjusted to include the 25 acres of Bureau of Land Man-

1 agement land in Baker, California, as depicted on the map
2 entitled ‘Mojave National Preserve Proposed Boundary
3 Addition’, numbered 170/100,199, and dated August
4 2009.

5 **“SEC. 1403. JOSHUA TREE NATIONAL PARK BOUNDARY RE-**
6 **VISION.**

7 “(a) IN GENERAL.—The boundary of the Joshua
8 Tree National Park is adjusted to include—

9 “(1) the 2,879 acres of land managed by Direc-
10 tor of the Bureau of Land Management that are
11 contiguous at several different places to the northern
12 boundaries of Joshua Tree National Park in the
13 northwest section of the Park, as depicted on the
14 map entitled ‘Joshua Tree National Park Proposed
15 Boundary Additions’, numbered 156/100,077, and
16 dated August 2009; and

17 “(2) the 1,639 acres of land to be acquired
18 from the Mojave Desert Land Trust that are contig-
19 uous at several different places to the northern
20 boundaries of Joshua Tree National Park in the
21 northwest section of the Park, as depicted on the
22 map entitled ‘Mojave Desert Land Trust National
23 Park Service Additions’, numbered 156/126,376,
24 and dated September 2014.

1 “(b) AVAILABILITY OF MAPS.—The map described in
2 subsection (a) and the map depicting the 25 acres de-
3 scribed in subsection (c)(2) shall be on file and available
4 for public inspection in the appropriate offices of the Na-
5 tional Park Service.

6 “(c) ADMINISTRATION.—

7 “(1) IN GENERAL.—The Secretary shall admin-
8 ister any land added to the Joshua Tree National
9 Park under subsection (a) and the additional land
10 described in paragraph (2)—

11 “(A) as part of Joshua Tree National
12 Park; and

13 “(B) in accordance with applicable laws
14 (including regulations).

15 “(2) DESCRIPTION OF ADDITIONAL LAND.—The
16 additional land referred to in paragraph (1) is the
17 25 acres of land—

18 “(A) depicted on the map entitled ‘Joshua
19 Tree National Park Boundary Adjustment
20 Map’, numbered 156/80,049, and dated April 1,
21 2003;

22 “(B) added to Joshua Tree National Park
23 by the notice of the Department of the Interior
24 of August 28, 2003 (68 Fed. Reg. 51799); and

1 “(C) more particularly described as lots
 2 26, 27, 28, 33, and 34 in sec. 34, T. 1 N., R.
 3 8 E., San Bernardino Meridian.

4 “(d) SOUTHERN CALIFORNIA EDISON COMPANY EN-
 5 ERGY TRANSPORT FACILITIES AND RIGHTS-OF-WAY.—

6 “(1) IN GENERAL.—Nothing in this title termi-
 7 nates any valid right-of-way for the customary oper-
 8 ation, maintenance, upgrade, repair, relocation with-
 9 in an existing right-of-way, replacement, or other au-
 10 thorized energy transport facility activities in a
 11 right-of-way issued, granted, or permitted to the
 12 Southern California Edison Company or the prede-
 13 cessors, successors, or assigns of the Southern Cali-
 14 fornia Edison Company that is located on land de-
 15 scribed in paragraphs (1) and (2) of subsection (a),
 16 including, at a minimum, the use of mechanized ve-
 17 hicles, helicopters, or other aerial devices.

18 “(2) UPGRADES AND REPLACEMENTS.—Noth-
 19 ing in this title prohibits the upgrading or replace-
 20 ment of—

21 “(A) Southern California Edison Company
 22 energy transport facilities, including the energy
 23 transport facilities referred to as the Jellystone,
 24 Burnt Mountain, Whitehorn, Allegra, and Utah
 25 distribution circuits rights-of-way; or

1 “(B) an energy transport facility in rights-
 2 of-way issued, granted, or permitted by the Sec-
 3 retary adjacent to Southern California Edison
 4 Joshua Tree Utility Facilities.

5 “(3) PUBLICATION OF PLANS.—Not later than
 6 the date that is 1 year after the date of enactment
 7 of this title or the issuance of a new energy trans-
 8 port facility right-of-way within the Joshua Tree Na-
 9 tional Park, whichever is earlier, the Secretary, in
 10 consultation with the Southern California Edison
 11 Company, shall publish plans for regular and emer-
 12 gency access by the Southern California Edison
 13 Company to the rights-of-way of the Southern Cali-
 14 fornia Edison Company within Joshua Tree Na-
 15 tional Park.

16 **“TITLE XV—NATIONAL OFF-**
 17 **HIGHWAY VEHICLE RECRE-**
 18 **ATION AREAS**

19 **“SEC. 1501. DESIGNATION OF NATIONAL OFF-HIGHWAY VE-**
 20 **HICLE RECREATION AREAS.**

21 “(a) DESIGNATION.—In accordance with the Federal
 22 Land Policy and Management Act of 1976 (43 U.S.C.
 23 1701 et seq.) and resource management plans developed
 24 under this title and subject to valid rights, the following
 25 land within the Conservation Area in San Bernardino

1 County, California, is designated as National Off-Highway
2 Vehicle Recreation Areas:

3 “(1) DUMONT DUNES NATIONAL OFF-HIGHWAY
4 VEHICLE RECREATION AREA.—Certain Bureau of
5 Land Management land in the Conservation Area,
6 comprising approximately 7,630 acres, as generally
7 depicted on the map entitled ‘Dumont Dunes Pro-
8 posed National OHV Recreation Area’ and dated
9 June 29, 2015, which shall be known as the ‘Du-
10 mont Dunes National Off-Highway Vehicle Recre-
11 ation Area’.

12 “(2) EL MIRAGE NATIONAL OFF-HIGHWAY VE-
13 HICLE RECREATION AREA.—Certain Bureau of Land
14 Management land in the Conservation Area, com-
15 prising approximately 14,930 acres, as generally de-
16 picted on the map entitled ‘El Mirage Proposed Na-
17 tional OHV Recreation Area’ and dated January 4,
18 2017, which shall be known as the ‘El Mirage Na-
19 tional Off-Highway Vehicle Recreation Area’.

20 “(3) RASOR NATIONAL OFF-HIGHWAY VEHICLE
21 RECREATION AREA.—Certain Bureau of Land Man-
22 agement land in the Conservation Area, comprising
23 approximately 23,910 acres, as generally depicted on
24 the map entitled ‘Rasor Proposed National OHV
25 Recreation Area’ and dated February 15, 2015,

1 which shall be known as the ‘Rasor National Off-
2 Highway Vehicle Recreation Area’.

3 “(4) SPANGLER HILLS NATIONAL OFF-HIGHWAY
4 VEHICLE RECREATION AREA.—Certain Bureau of
5 Land Management land in the Conservation Area,
6 comprising approximately 56,140 acres, as generally
7 depicted on the map entitled ‘Spangler Hills Pro-
8 posed National OHV Recreation Area’ and dated
9 January 4, 2017, which shall be known as the
10 ‘Spangler Hills National Off-Highway Vehicle Recre-
11 ation Area’.

12 “(5) STODDARD VALLEY NATIONAL OFF-HIGH-
13 WAY VEHICLE RECREATION AREA.—Certain Bureau
14 of Land Management land in the Conservation Area,
15 comprising approximately 40,110 acres, as generally
16 depicted on the map entitled ‘Stoddard Valley Pro-
17 posed National OHV Recreation Area’ and dated
18 February 18, 2015, which shall be known as the
19 ‘Stoddard Valley National Off-Highway Vehicle
20 Recreation Area’.

21 “(b) REDESIGNATION AND EXPANSION OF JOHNSON
22 VALLEY NATIONAL OFF-HIGHWAY VEHICLE RECREATION
23 AREA.—

24 “(1) REDESIGNATION.—The Johnson Valley
25 Off-Highway Vehicle Recreation Area designated by

1 section 2945 of the Military Construction Authoriza-
2 tion Act for Fiscal Year 2014 (division B of Public
3 Law 113–66; 127 Stat. 1038)—

4 “(A) is hereby redesignated as the Johnson
5 Valley National Off-Highway Vehicle Recreation
6 Area; and

7 “(B) is expanded to include all of the land,
8 approximately 11,300 acres, depicted as the
9 ‘Proposed Johnson Valley National Off-High-
10 way Vehicle Recreation Area Additions’ on the
11 map entitled ‘Johnson Valley National Off-
12 Highway Vehicle Recreation Area’ and dated
13 November 30, 2016.

14 “(2) RELATION TO AUTHORIZED NAVY USE.—

15 The redesignation of the Johnson Valley Off-High-
16 way Vehicle Recreation Area as the Johnson Valley
17 National Off-Highway Vehicle Recreation Area does
18 not alter or interfere with the rights and obligations
19 of the Navy regarding the use of portions of the
20 Recreation Area as provided in subtitle C of title
21 XXIX of the Military Construction Authorization
22 Act for Fiscal Year 2014 (division B of Public Law
23 113–66; 127 Stat. 1034).

24 “(3) REFERENCES.—Any reference in any law,
25 regulation, document, record, map, or other paper of

1 the United States to the Johnson Valley Off-High-
2 way Vehicle Recreation Area is deemed to be a ref-
3 erence to the Johnson Valley National Off-Highway
4 Vehicle Recreation Area.

5 “(c) PURPOSE.—The purpose of the national off-
6 highway vehicle recreation areas designated under sub-
7 sections (a) and (b) is to preserve and enhance the rec-
8 reational opportunities within the Conservation Area (in-
9 cluding opportunities for off-highway vehicle recreation),
10 while conserving the wildlife and other natural resource
11 values of the Conservation Area.

12 “(d) MAPS AND DESCRIPTIONS.—

13 “(1) PREPARATION AND SUBMISSION.—As soon
14 as practicable after the date of enactment of this
15 title, the Secretary shall file a map and legal de-
16 scription of each national off-highway vehicle recre-
17 ation area designated or expanded by subsections (a)
18 or (b) with—

19 “(A) the Committee on Natural Resources
20 of the House of Representatives; and

21 “(B) the Committee on Energy and Nat-
22 ural Resources of the Senate.

23 “(2) LEGAL EFFECT.—The map and legal de-
24 scriptions of the national off-highway vehicle recre-
25 ation areas filed under paragraph (1) shall have the

1 same force and effect as if included in this title, ex-
2 cept that the Secretary may correct errors in the
3 map and legal descriptions.

4 “(3) PUBLIC AVAILABILITY.—Each map and
5 legal description filed under paragraph (1) shall be
6 filed and made available for public inspection in the
7 appropriate offices of the Bureau of Land Manage-
8 ment.

9 “(e) USE OF THE LAND.—

10 “(1) RECREATIONAL ACTIVITIES.—

11 “(A) IN GENERAL.—The Secretary shall
12 continue to authorize, maintain, and enhance
13 the recreational uses of the national off-highway
14 vehicle recreation areas designated or expanded
15 by subsections (a) and (b), including off-high-
16 way recreation, hiking, camping, hunting,
17 mountain biking, sightseeing, rockhounding,
18 and horseback riding, as long as the rec-
19 reational use is consistent with this section and
20 any other applicable law.

21 “(B) OFF-HIGHWAY VEHICLE AND OFF-
22 HIGHWAY RECREATION.—To the extent con-
23 sistent with applicable Federal law (including
24 regulations) and this section, any authorized
25 recreation activities and use designations in ef-

fect on the date of enactment of this title and applicable to the national off-highway vehicle recreation areas designated or expanded by subsections (a) and (b) shall continue, including casual off-highway vehicular use, racing, competitive events, rock crawling, training, and other forms of off-highway recreation.

“(2) WILDLIFE GUZZLERS.—Wildlife guzzlers shall be allowed in the national off-highway vehicle recreation areas designated by subsection (a) in accordance with—

“(A) applicable Bureau of Land Management guidelines; and

“(B) State law.

“(3) PROHIBITED USES.—

“(A) IN GENERAL.—Commercial development (including development of energy facilities, but excluding energy transport facilities, rights-of-way, and related telecommunication facilities) shall be prohibited in the national off-highway vehicle recreation areas designated by subsections (a) and (b) if the Secretary determines that the development is incompatible with the purpose of this title.

1 “(B) EXCEPTION FOR TEMPORARY PER-
2 MITTED VENDORS.—Subparagraph (A) does not
3 prohibit a commercial vendor from establishing,
4 pursuant to a temporary permit, a site in the
5 national off-highway vehicle recreation areas for
6 the purpose of providing accessories and other
7 support for off-highway vehicles and vehicles
8 used for accessing the area.

9 “(f) ADMINISTRATION.—

10 “(1) IN GENERAL.—The Secretary shall admin-
11 ister the national off-highway vehicle recreation
12 areas designated by subsections (a) and (b) in ac-
13 cordance with—

14 “(A) this title;

15 “(B) the Federal Land Policy and Man-
16 agement Act of 1976 (43 U.S.C. 1701 et seq.);
17 and

18 “(C) any other applicable laws (including
19 regulations).

20 “(2) MANAGEMENT PLAN.—

21 “(A) IN GENERAL.—As soon as prac-
22 ticable, but not later than 3 years after the date
23 of enactment of this title, the Secretary shall—

24 “(i) amend existing resource manage-
25 ment plans applicable to the land des-

1 ignated as national off-highway vehicle
2 recreation areas under subsection (a); or

3 “(ii) develop new management plans
4 for each national off-highway vehicle recre-
5 ation area designated under that sub-
6 section.

7 “(B) REQUIREMENTS.—All new or amend-
8 ed plans under subparagraph (A) shall be de-
9 signed to preserve and enhance safe off-highway
10 vehicle and other recreational opportunities
11 within the applicable recreation area consistent
12 with—

13 “(i) the purpose described in sub-
14 section (c); and

15 “(ii) any applicable laws (including
16 regulations).

17 “(C) INTERIM PLANS.—Pending comple-
18 tion of a new management plan under subpara-
19 graph (A), the existing resource management
20 plans shall govern the use of the applicable na-
21 tional off-highway vehicle recreation area.

22 “(g) STUDY.—

23 “(1) IN GENERAL.—As soon as practicable, but
24 not later than 2 years, after the date of enactment
25 of this title, the Secretary shall complete a study to

1 identify Bureau of Land Management land within
2 the Conservation Area that is suitable for addition
3 to—

4 “(A) the national off-highway vehicle recre-
5 ation areas designated by subsection (a) and
6 (b); or

7 “(B) the Johnson Valley National Off-
8 Highway Vehicle Recreation Area designated by
9 section 2945 of the National Defense Author-
10 ization Act for Fiscal Year 2014 (Public Law
11 113–66; 127 Stat. 1038).

12 “(2) STUDY AREAS.—The study required under
13 paragraph (1) shall include—

14 “(A) certain Bureau of Land Management
15 land in the Conservation Area, comprising ap-
16 proximately 41,000 acres, as generally depicted
17 on the map entitled ‘Spangler Hills Proposed
18 National OHV Recreation Area’ and dated Jan-
19 uary 4, 2017; and

20 “(B) certain Bureau of Land Management
21 land in the Conservation Area, comprising ap-
22 proximately 680 acres, as generally depicted on
23 the map entitled ‘El Mirage Proposed National
24 OHV Recreation Area’ and dated January 21,
25 2017.

1 “(C) certain Bureau of Land Management
2 land in the Conservation Area, comprising ap-
3 proximately 10,300 acres, as generally depicted
4 on the map entitled ‘Johnson Valley National
5 Off-Highway Vehicle Recreation Area’ and
6 dated November 30, 2016.

7 “(3) REQUIREMENTS.—In preparing the study
8 under paragraph (1), the Secretary shall—

9 “(A) seek input from stakeholders, includ-
10 ing—

11 “(i) the State, including—

12 “(I) the California Public Utili-
13 ties Commission; and

14 “(II) the California Energy Com-
15 mission;

16 “(ii) San Bernardino County, Cali-
17 fornia;

18 “(iii) the public;

19 “(iv) recreational user groups;

20 “(v) conservation organizations;

21 “(vi) the Southern California Edison
22 Company;

23 “(vii) the Pacific Gas and Electric
24 Company; and

1 “(viii) other Federal agencies, includ-
2 ing the Department of Defense;

3 “(B) explore the feasibility of—

4 “(i) expanding the southern boundary
5 of the national off-highway vehicle recre-
6 ation area described in subsection (a)(3) to
7 include previously disturbed land; and

8 “(ii) establishing a right of way for
9 OHV use in the area identified in (g)(2),
10 to the extent necessary to connect the non-
11 contiguous areas of the Johnson Valley
12 National Off-Highway Vehicle Recreation
13 Area;

14 “(C) identify and exclude from consider-
15 ation any land that—

16 “(i) is managed for conservation pur-
17 poses;

18 “(ii) is identified as critical habitat
19 for a listed species;

20 “(iii) may be suitable for renewable
21 energy development; or

22 “(iv) may be necessary for energy
23 transmission; and

24 “(D) not recommend or approve expansion
25 of national off-highway vehicle recreation areas

1 within the Conservation Area that collectively
2 would exceed the total acres administratively
3 designated for off-highway recreation within the
4 Conservation Area as of the day before the date
5 of enactment of the National Defense Author-
6 ization Act for Fiscal Year 2014 (Public Law
7 113–66; 127 Stat. 672).

8 “(4) APPLICABLE LAW.—The Secretary shall
9 consider the information and recommendations of
10 the study completed under paragraph (1) to deter-
11 mine the impacts of expanding national off-highway
12 vehicle recreation areas designated by subsection (a)
13 on the Conservation Area, in accordance with—

14 “(A) the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4321 et seq.);

16 “(B) the Endangered Species Act of 1973
17 (16 U.S.C. 1531 et seq.);

18 “(C) applicable regulations and plans, in-
19 cluding the Desert Renewable Energy Conserva-
20 tion Plan Land Use Plan Amendment; and

21 “(D) any other applicable law.

22 “(5) SUBMISSION TO CONGRESS.—On comple-
23 tion of the study under paragraph (1), the Secretary
24 shall submit the study to—

1 “(A) the Committee on Natural Resources
2 of the House of Representatives; and

3 “(B) the Committee on Energy and Nat-
4 ural Resources of the Senate.

5 “(6) AUTHORIZATION FOR EXPANSION.—

6 “(A) IN GENERAL.—On completion of the
7 study under paragraph (1) and in accordance
8 with all applicable laws (including regulations),
9 the Secretary shall authorize the expansion of
10 the national off-highway vehicle recreation
11 areas recommended under the study.

12 “(B) MANAGEMENT.—Any land within the
13 expanded areas under subparagraph (A) shall
14 be managed in accordance with this section.

15 “(h) SOUTHERN CALIFORNIA EDISON COMPANY
16 UTILITY FACILITIES AND RIGHTS-OF-WAY.—

17 “(1) EFFECT OF TITLE.—Nothing in this
18 title—

19 “(A) terminates any validly issued right-of-
20 way for the customary operation, maintenance,
21 upgrade, repair, relocation within an existing
22 right-of-way, replacement, or other authorized
23 energy transport facility activities (including the
24 use of any mechanized vehicle, helicopter, and
25 other aerial device) in a right-of-way issued,

1 granted, or permitted to Southern California
2 Edison Company (including any predecessor or
3 successor in interest or assign) that is located
4 on land included in—

5 “(i) the El Mirage National Off-High-
6 way Vehicle Recreation Area;

7 “(ii) the Spangler Hills National Off-
8 Highway Vehicle Recreation Area; or

9 “(iii) the Stoddard Valley National
10 Off Highway Vehicle Recreation Area;

11 “(B) affects the application, siting, route
12 selection, right-of-way acquisition, or construc-
13 tion of the Coolwater-Lugo transmission
14 project, as may be approved by the California
15 Public Utilities Commission and the Bureau of
16 Land Management; or

17 “(C) prohibits the upgrading or replace-
18 ment of any Southern California Edison Com-
19 pany—

20 “(i) utility facility, including such a
21 utility facility known on the date of enact-
22 ment of this title as—

23 “(I) ‘Gale-PS 512 transmission
24 lines or rights-of-way’; and

1 “(II) ‘Patio, Jack Ranch, and
2 Kenworth distribution circuits or
3 rights-of-way’; and

4 “(ii) energy transport facility in a
5 right-of-way issued, granted, or permitted
6 by the Secretary adjacent to a utility facil-
7 ity referred to in clause (i).

8 “(2) PLANS FOR ACCESS.—The Secretary, in
9 consultation with the Southern California Edison
10 Company, shall publish plans for regular and emer-
11 gency access by the Southern California Edison
12 Company to the rights-of-way of the Company by
13 the date that is 1 year after the later of—

14 “(A) the date of enactment of this title;
15 and

16 “(B) the date of issuance of a new energy
17 transport facility right-of-way within—

18 “(i) the El Mirage National Off-High-
19 way Vehicle Recreation Area;

20 “(ii) the Spangler Hills National Off-
21 Highway Vehicle Recreation Area; or

22 “(iii) the Stoddard Valley National
23 Off Highway Vehicle Recreation Area.

24 “(i) PACIFIC GAS AND ELECTRIC COMPANY UTILITY
25 FACILITIES AND RIGHTS-OF-WAY.—

1 “(1) EFFECT OF TITLE.—Nothing in this
2 title—

3 “(A) terminates any validly issued right-of-
4 way for the customary operation, maintenance,
5 upgrade, repair, relocation within an existing
6 right-of-way, replacement, or other authorized
7 activity (including the use of any mechanized
8 vehicle, helicopter, and other aerial device) in a
9 right-of-way issued, granted, or permitted to
10 Pacific Gas and Electric Company (including
11 any predecessor or successor in interest or as-
12 sign) that is located on land included in the
13 Spangler Hills National Off-Highway Vehicle
14 Recreation Area; or

15 “(B) prohibits the upgrading or replace-
16 ment of any—

17 “(i) utility facilities of the Pacific Gas
18 and Electric Company, including those
19 utility facilities known on the date of en-
20 actment of this title as—

21 “(I) Gas Transmission Line 311
22 or rights-of-way; and

23 “(II) Gas Transmission Line 372
24 or rights-of-way; and

1 “(ii) utility facilities of the Pacific
 2 Gas and Electric Company in rights-of-way
 3 issued, granted, or permitted by the Sec-
 4 retary adjacent to a utility facility referred
 5 to in clause (i).

6 “(2) PLANS FOR ACCESS.—Not later than 1
 7 year after the date of enactment of this title or the
 8 issuance of a new utility facility right-of-way within
 9 the Spangler Hills National Off-Highway Vehicle
 10 Recreation Area, whichever is later, the Secretary, in
 11 consultation with the Pacific Gas and Electric Com-
 12 pany, shall publish plans for regular and emergency
 13 access by the Pacific Gas and Electric Company to
 14 the rights-of-way of the Pacific Gas and Electric
 15 Company.

16 **“TITLE XVI—ALABAMA HILLS**
 17 **NATIONAL SCENIC AREA**

18 **“SEC. 1601. DEFINITIONS.**

19 “In this title:

20 “(1) MANAGEMENT PLAN.—The term ‘manage-
 21 ment plan’ means the management plan for the Na-
 22 tional Scenic Area developed under section 1603(a).

23 “(2) MAP.—The term ‘Map’ means the map ti-
 24 tled ‘Proposed Alabama Hills National Scenic Area’,
 25 dated September 8, 2014.

1 “(3) **MOTORIZED VEHICLES.**—The term ‘motor-
2 ized vehicles’ means motorized or mechanized vehi-
3 cles and includes, when used by utilities, mechanized
4 equipment, helicopters, and other aerial devices nec-
5 essary to maintain electrical or communications in-
6 frastructure.

7 “(4) **NATIONAL SCENIC AREA.**—The term ‘Na-
8 tional Scenic Area’ means the Alabama Hills Na-
9 tional Scenic Area established by section 1602(a).

10 “(5) **SECRETARY.**—The term ‘Secretary’ means
11 the Secretary of the Interior.

12 “(6) **STATE.**—The term ‘State’ means the State
13 of California.

14 “(7) **TRIBE.**—The term ‘Tribe’ means the Lone
15 Pine Paiute-Shoshone.

16 “(8) **UTILITY FACILITY.**—The term ‘utility fa-
17 cility’ means any and all existing and future water
18 system facilities including aqueducts, streams,
19 ditches, and canals; water facilities including, but
20 not limited to, flow measuring stations, gauges,
21 gates, valves, piping, conduits, fencing, and electrical
22 power and communications devices and systems; and
23 any and all existing and future electric generation
24 facilities, electric storage facilities, overhead and/or
25 underground electrical supply systems and commu-

1 nication systems consisting of electric substations,
 2 electric lines, poles and towers made of various ma-
 3 terials, ‘H’ frame structures, guy wires and anchors,
 4 crossarms, wires, underground conduits, cables,
 5 vaults, manholes, handholes, above-ground enclo-
 6 sures, markers and concrete pads and other fixtures,
 7 appliances and communication circuits, and other
 8 fixtures, appliances and appurtenances connected
 9 therewith necessary or convenient for the construc-
 10 tion, operation, regulation, control, grounding and
 11 maintenance of electric generation, storage, lines
 12 and communication circuits, for the purpose of
 13 transmitting intelligence and generating, storing,
 14 distributing, regulating and controlling electric en-
 15 ergy to be used for light, heat, power, communica-
 16 tion, and other purposes.

17 **“SEC. 1602. ALABAMA HILLS NATIONAL SCENIC AREA, CALI-**
 18 **FORNIA.**

19 “(a) ESTABLISHMENT.—Subject to valid, existing
 20 rights, there is established in Inyo County, California, the
 21 Alabama Hills National Scenic Area. The National Scenic
 22 Area shall be comprised of the approximately 18,610 acres
 23 generally depicted on the Map as ‘National Scenic Area’.

24 “(b) PURPOSE.—The purpose of the National Scenic
 25 Area is to conserve, protect, and enhance for the benefit,

1 use, and enjoyment of present and future generations the
2 nationally significant scenic, cultural, geological, edu-
3 cational, biological, historical, recreational, cinemato-
4 graphic, and scientific resources of the National Scenic
5 Area managed consistent with section 302(a) of the Fed-
6 eral Land Policy and Management Act of 1976 (43 U.S.C.
7 1732(a)).

8 “(c) MAP; LEGAL DESCRIPTIONS.—

9 “(1) IN GENERAL.—As soon as practicable
10 after the date of enactment of this Act, the Sec-
11 retary shall file a map and a legal description of the
12 National Scenic Area with—

13 “(A) the Committee on Energy and Nat-
14 ural Resources of the Senate; and

15 “(B) the Committee on Natural Resources
16 of the House of Representatives.

17 “(2) FORCE OF LAW.—The map and legal de-
18 scriptions filed under paragraph (1) shall have the
19 same force and effect as if included in this Act, ex-
20 cept that the Secretary may correct any clerical and
21 typographical errors in the map and legal descrip-
22 tions.

23 “(3) PUBLIC AVAILABILITY.—Each map and
24 legal description filed under paragraph (1) shall be
25 on file and available for public inspection in the ap-

1 appropriate offices of the Forest Service and Bureau
2 of Land Management.

3 “(d) ADMINISTRATION.—The Secretary shall manage
4 the National Scenic Area—

5 “(1) as a component of the National Landscape
6 Conservation System;

7 “(2) so as not to impact the future continuing
8 operations and maintenance of any activities associ-
9 ated with valid, existing rights, including water
10 rights;

11 “(3) in a manner that conserves, protects, and
12 enhances the resources and values of the National
13 Scenic Area described in subsection (b); and

14 “(4) in accordance with—

15 “(A) the Federal Land Policy and Manage-
16 ment Act of 1976 (43 U.S.C. 1701 et seq.);

17 “(B) this Act; and

18 “(C) any other applicable laws.

19 “(e) MANAGEMENT.—

20 “(1) IN GENERAL.—The Secretary shall allow
21 only such uses of the National Scenic Area as the
22 Secretary determines would support the purposes of
23 the National Scenic Area as described in subsection
24 (b).

1 “(2) RECREATIONAL ACTIVITIES.—Except as
2 otherwise provided in this Act or other applicable
3 law, or as the Secretary determines to be necessary
4 for public health and safety, the Secretary shall
5 allow existing recreational uses of the National Scenic
6 Area to continue, including hiking, mountain
7 biking, rock climbing, sightseeing, horseback riding,
8 hunting, fishing, and appropriate authorized motor-
9 ized vehicle use.

10 “(3) MOTORIZED VEHICLES.—Except as speci-
11 fied within this Act and/or in cases in which motor-
12 ized vehicles are needed for administrative purposes,
13 or to respond to an emergency, the use of motorized
14 vehicles in the National Scenic Area shall be per-
15 mitted only on—

16 “(A) roads and trails designated by the Di-
17 rector of the Bureau of Land Management for
18 use of motorized vehicles as part of a manage-
19 ment plan sustaining a semi-primitive motorized
20 experience; or

21 “(B) on county-maintained roads in ac-
22 cordance with applicable State and county laws.

23 “(f) NO BUFFER ZONES.—

1 “(1) IN GENERAL.—Nothing in this Act creates
2 a protective perimeter or buffer zone around the Na-
3 tional Scenic Area.

4 “(2) ACTIVITIES OUTSIDE NATIONAL SCENIC
5 AREA.—The fact that an activity or use on land out-
6 side the National Scenic Area can be seen or heard
7 within the National Scenic Area shall not preclude
8 the activity or use outside the boundaries of the Na-
9 tional Scenic Area.

10 “(g) ACCESS.—The Secretary shall continue to pro-
11 vide private landowners adequate access to inholdings in
12 the National Scenic Area.

13 “(h) FILMING.—Nothing in this Act prohibits filming
14 (including commercial film production, student filming,
15 and still photography) within the National Scenic Area—

16 “(1) subject to—

17 “(A) such reasonable regulations, policies,
18 and practices as the Secretary considers to be
19 necessary; and

20 “(B) applicable law; and

21 “(2) in a manner consistent with the purposes
22 described in subsection (b).

23 “(i) FISH AND WILDLIFE.—Nothing in this Act af-
24 fects the jurisdiction or responsibilities of the State with
25 respect to fish and wildlife.

1 “(j) LIVESTOCK.—The grazing of livestock in the Na-
2 tional Scenic Area, including grazing under the Alabama
3 Hills allotment and the George Creek allotment, as estab-
4 lished before the date of enactment of this Act, shall be
5 permitted to continue—

6 “(1) subject to—

7 “(A) such reasonable regulations, policies,
8 and practices as the Secretary considers to be
9 necessary; and

10 “(B) applicable law; and

11 “(2) in a manner consistent with the purposes
12 described in subsection (b).

13 “(k) OVERFLIGHTS.—Nothing in this Act restricts or
14 precludes flights over the National Scenic Area or over-
15 flights that can be seen or heard within the National Sce-
16 nic Area, including—

17 “(1) transportation, sightseeing and filming
18 flights, general aviation planes, helicopters, hang-
19 gliders, and balloonists, for commercial or rec-
20 reational purposes;

21 “(2) low-level overflights of military aircraft;

22 “(3) flight testing and evaluation;

23 “(4) the designation or creation of new units of
24 special use airspace, or the establishment of military

1 flight training routes, over the National Scenic Area;
2 or

3 “(5) the use, including take-off and landing, of
4 helicopters and other aerial devices within valid
5 rights-of-way to construct or maintain energy trans-
6 port facilities.

7 “(l) WITHDRAWAL.—Subject to this Act’s provisions
8 and valid rights in existence on the date of enactment of
9 this Act, including rights established by prior withdrawals,
10 the Federal land within the National Scenic Area is with-
11 drawn from all forms of—

12 “(1) entry, appropriation, or disposal under the
13 public land laws;

14 “(2) location, entry, and patent under the min-
15 ing laws; and

16 “(3) disposition under all laws pertaining to
17 mineral and geothermal leasing or mineral materials.

18 “(m) WILDLAND FIRE OPERATIONS.—Nothing in
19 this Act prohibits the Secretary, in cooperation with other
20 Federal, State, and local agencies, as appropriate, from
21 conducting wildland fire operations in the National Scenic
22 Area, consistent with the purposes described in subsection
23 (b).

24 “(n) GRANTS; COOPERATIVE AGREEMENTS.—The
25 Secretary may make grants to, or enter into cooperative

1 agreements with, State, tribal, and local governmental en-
2 tities and private entities to conduct research, interpreta-
3 tion, or public education or to carry out any other initia-
4 tive relating to the restoration, conservation, or manage-
5 ment of the National Scenic Area.

6 “(o) AIR AND WATER QUALITY.—Nothing in this Act
7 modifies any standard governing air or water quality out-
8 side of the boundaries of the National Scenic Area.

9 “(p) UTILITY FACILITIES AND RIGHTS OF WAY.—

10 “(1) Nothing in this Act shall—

11 “(A) affect the existence, use, operation,
12 maintenance (including but not limited to vege-
13 tation control), repair, construction, reconfig-
14 uration, expansion, inspection, renewal, recon-
15 struction, alteration, addition, relocation, im-
16 provement, funding, removal, or replacement of
17 utility facilities or appurtenant rights of way
18 within or adjacent to the National Scenic Area;

19 “(B) affect necessary or efficient access to
20 utility facilities or rights of way within or adja-
21 cent to the National Scenic Area subject to sub-
22 section (e); or

23 “(C) preclude the Secretary from author-
24 izing the establishment of new utility facility
25 rights of way (including instream sites, routes,

1 and areas) within the National Scenic Area in
2 a manner that minimizes harm to the purpose
3 of the National Scenic Area as described in sub-
4 section (b)—

5 “(i) with the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.) and any other applicable law;

8 “(ii) subject to such terms and condi-
9 tions as the Secretary determines to be ap-
10 propriate; and

11 “(iii) are determined, by the Sec-
12 retary, to be the only technical or feasible
13 location, following consideration of alter-
14 natives within existing rights of way or
15 outside of the National Scenic Area.

16 “(2) MANAGEMENT PLAN.—Consistent with
17 this Act, the Management Plan shall establish plans
18 for maintenance of public utility and other rights of
19 way within the National Scenic Area.

20 **“SEC. 1603. MANAGEMENT PLAN.**

21 “(a) IN GENERAL.—Not later than 3 years after the
22 date of enactment of this Act, in accordance with sub-
23 section (b), the Secretary shall develop a comprehensive
24 plan for the long-term management of the National Scenic
25 Area.

1 “(b) CONSULTATION.—In developing the manage-
2 ment plan, the Secretary shall—

3 “(1) consult with appropriate State, tribal, and
4 local governmental entities, including Inyo County
5 and the Tribe; and

6 “(2) seek input from—

7 “(A) investor-owned utilities, including
8 Southern California Edison Company;

9 “(B) the Alabama Hills Stewardship
10 Group;

11 “(C) members of the public; and

12 “(D) the Los Angeles Department of
13 Water and Power.

14 “(c) INCORPORATION OF MANAGEMENT PLAN.—In
15 developing the management plan, in accordance with this
16 section, the Secretary shall allow, in perpetuity, casual-
17 use mining limited to the use of hand tools, metal detec-
18 tors, hand-fed dry washers, vacuum cleaners, gold pans,
19 small sluices, and similar items.

20 “(d) INTERIM MANAGEMENT.—Pending completion
21 of the management plan, the Secretary shall manage the
22 National Scenic Area in accordance with section 3.

1 **“SEC. 1604. LAND TAKEN INTO TRUST FOR LONE PINE PAI-**
2 **UTE-SHOSHONE RESERVATION.**

3 “(a) TRUST LAND.—As soon as practicable after the
4 date of the enactment of this Act, the Secretary shall take
5 the approximately 132 acres of Federal land depicted on
6 the Map as ‘Lone Pine Paiute-Shoshone Reservation Addi-
7 tion’ into trust for the benefit of the Tribe, subject to the
8 following:

9 “(1) CONDITIONS.—The land shall be subject to
10 all easements, covenants, conditions, restrictions,
11 withdrawals, and other matters of record on the date
12 of the enactment of this Act.

13 “(2) EXCLUSION.—The Federal lands over
14 which the right-of-way for the Los Angeles Aqueduct
15 is located, generally described as the 250-foot-wide
16 right-of-way granted to the City of Los Angeles pur-
17 suant to the Act of June 30, 1906 (Chap. 3926),
18 shall not be taken into trust for the Tribe.

19 “(b) RESERVATION LAND.—The land taken into
20 trust pursuant to subsection (a) shall be considered part
21 of the reservation of the Tribe.

22 “(c) GAMING PROHIBITION.—Gaming under the In-
23 dian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)
24 shall not be allowed on the land taken into trust pursuant
25 to subsection (a).

1 **“SEC. 1605. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

2 “Administrative jurisdiction of the approximately 56
3 acres of Federal land depicted on the Map as ‘USFS
4 Transfer to BLM’ is hereby transferred from the Forest
5 Service under the Secretary of Agriculture to the Bureau
6 of Land Management under the Secretary.

7 **“SEC. 1606. PROTECTION OF SERVICES AND REC-**
8 **REATIONAL OPPORTUNITIES.**

9 “Nothing in this Act shall be construed to limit com-
10 mercial services for existing and historic recreation uses
11 as authorized by the Bureau of Land Management’s per-
12 mit process. Valid, existing, commercial permits to exer-
13 cise guided recreational opportunities for the public may
14 continue as authorized on the day before the date of the
15 enactment of this Act.

16 **“TITLE XVII—MISCELLANEOUS**

17 **“SEC. 1701. MILITARY ACTIVITIES.**

18 “Nothing in this title—

19 “(1) restricts or precludes Department of De-
20 fense motorized access by land or air—

21 “(A) to respond to an emergency within a
22 wilderness area designated by this Act; or

23 “(B) to control access to the emergency
24 site;

1 “(2) prevents nonmechanized military training
 2 activities previously conducted on wilderness areas
 3 designated by this title that are consistent with—

4 “(A) the Wilderness Act (16 U.S.C. 1131
 5 et seq.); and

6 “(B) all applicable laws (including regula-
 7 tions);

8 “(3) restricts or precludes low-level overflights
 9 of military aircraft over the areas designated as wil-
 10 derness, national monuments, special management
 11 areas, or recreation areas by this Act, including mili-
 12 tary overflights that can be seen or heard within the
 13 designated areas;

14 “(4) restricts or precludes flight testing and
 15 evaluation in the areas described in paragraph (3);
 16 or

17 “(5) restricts or precludes the designation or
 18 creation of new units of special use airspace, or the
 19 establishment of military flight training routes, over
 20 the areas described in paragraph (3).

21 **“SEC. 1702. PROHIBITED USES OF ACQUIRED, DONATED,**
 22 **AND CONSERVATION LAND.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) ACQUIRED LAND.—The term ‘acquired
 25 land’ means any land acquired within the Conserva-

1 tion Area using amounts from the land and water
2 conservation fund established under section 200302
3 of title 54, United States Code.

4 “(2) CONSERVATION LAND.—The term ‘con-
5 servation land’ means any land within the Conserva-
6 tion Area that is designated to satisfy the conditions
7 of a Federal habitat conservation plan, general con-
8 servation plan, or State natural communities con-
9 servation plan, including—

10 “(A) national conservation land established
11 pursuant to section 2002(b)(2)(D) of the Omni-
12 bus Public Land Management Act of 2009 (16
13 U.S.C. 7202(b)(2)(D)); and

14 “(B) areas of critical environmental con-
15 cern established pursuant to section 202(c)(3)
16 of the Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1712(c)(3)).

18 “(3) DONATED LAND.—The term ‘donated
19 land’ means any private land donated to the United
20 States for conservation purposes in the Conservation
21 Area.

22 “(4) DONOR.—The term ‘donor’ means an indi-
23 vidual or entity that donates private land within the
24 Conservation Area to the United States.

1 “(5) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of the Interior, acting through the Di-
3 rector of the Bureau of Land Management.

4 “(b) PROHIBITIONS.—Except as provided in sub-
5 section (c), the Secretary shall not authorize the use of
6 acquired land, conservation land, or donated land within
7 the Conservation Area for any activities contrary to the
8 conservation purposes for which the land was acquired,
9 designated, or donated, including—

10 “(1) disposal;

11 “(2) rights-of-way;

12 “(3) leases;

13 “(4) livestock grazing;

14 “(5) infrastructure development, except as pro-
15 vided in subsection (c);

16 “(6) mineral entry; and

17 “(7) off-highway vehicle use, except on—

18 “(A) designated routes;

19 “(B) off-highway vehicle areas designated
20 by law; and

21 “(C) administratively designated open
22 areas.

23 “(c) EXCEPTIONS.—

24 “(1) AUTHORIZATION BY SECRETARY.—Subject
25 to paragraph (2), the Secretary may authorize lim-

1 ited exceptions to prohibited uses of acquired land or
2 donated land in the Conservation Area if—

3 “(A) a right-of-way application for a re-
4 newable energy development project or associ-
5 ated energy transport facility on acquired land
6 or donated land was submitted to the Bureau
7 of Land Management on or before December 1,
8 2009; or

9 “(B) after the completion and consider-
10 ation of an analysis under the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C. 4321
12 et seq.), the Secretary has determined that pro-
13 posed use is in the public interest.

14 “(2) CONDITIONS.—

15 “(A) IN GENERAL.—If the Secretary
16 grants an exception to the prohibition under
17 paragraph (1), the Secretary shall require the
18 permittee to donate private land of comparable
19 value located within the Conservation Area to
20 the United States to mitigate the use.

21 “(B) APPROVAL.—The private land to be
22 donated under subparagraph (A) shall be ap-
23 proved by the Secretary after—

24 “(i) consultation, to the maximum ex-
25 tent practicable, with the donor of the pri-

1 vate land proposed for nonconservation
2 uses; and

3 “(ii) an opportunity for public com-
4 ment regarding the donation.

5 “(d) EXISTING AGREEMENTS.—Nothing in this sec-
6 tion affects permitted or prohibited uses of donated land
7 or acquired land in the Conservation Area established in
8 any easements, deed restrictions, memoranda of under-
9 standing, or other agreements in existence on the date of
10 enactment of this title.

11 “(e) DEED RESTRICTIONS.—Effective beginning on
12 the date of enactment of this title, within the Conservation
13 Area, the Secretary may—

14 “(1) accept deed restrictions requested by land-
15 owners for land donated to, or otherwise acquired
16 by, the United States; and

17 “(2) consistent with existing rights, create deed
18 restrictions, easements, or other third-party rights
19 relating to any public land determined by the Sec-
20 retary to be necessary—

21 “(A) to fulfill the mitigation requirements
22 resulting from the development of renewable re-
23 sources; or

24 “(B) to satisfy the conditions of—

1 “(i) a habitat conservation plan or
2 general conservation plan established pur-
3 suant to section 10 of the Endangered
4 Species Act of 1973 (16 U.S.C. 1539); or
5 “(ii) a natural communities conserva-
6 tion plan approved by the State.

7 **“SEC. 1703. TRIBAL USES AND INTERESTS.**

8 “(a) ACCESS.—The Secretary shall ensure access to
9 areas designated under this Act by members of Indian
10 tribes for traditional cultural and religious purposes, con-
11 sistent with applicable law, including Public Law 95–341
12 (commonly known as the ‘American Indian Religious
13 Freedom Act’) (42 U.S.C. 1996).

14 “(b) TEMPORARY CLOSURE.—

15 “(1) IN GENERAL.—In accordance with applica-
16 ble law, including Public Law 95–341 (commonly
17 known as the ‘American Indian Religious Freedom
18 Act’) (42 U.S.C. 1996), and subject to paragraph
19 (2), the Secretary, on request of an Indian tribe or
20 Indian religious community, shall temporarily close
21 to general public use any portion of an area des-
22 ignated as a national monument, special manage-
23 ment area, wild and scenic river, area of critical en-
24 vironmental concern, or National Park System unit
25 under this Act (referred to in this subsection as a

1 ‘designated area’) to protect the privacy of tradi-
2 tional cultural and religious activities in the des-
3 ignated area by members of the Indian tribe or In-
4 dian religious community.

5 “(2) LIMITATION.—In closing a portion of a
6 designated area under paragraph (1), the Secretary
7 shall limit the closure to the smallest practicable
8 area for the minimum period necessary for the tradi-
9 tional cultural and religious activities.

10 “(c) TRIBAL CULTURAL RESOURCES MANAGEMENT
11 PLAN.—

12 “(1) IN GENERAL.—Not later than 2 years
13 after the date of enactment of this title, the Sec-
14 retary of the Interior shall develop and implement a
15 tribal cultural resources management plan to iden-
16 tify, protect, and conserve cultural resources of In-
17 dian tribes associated with the Xam Kwatchan Trail
18 network extending from Avikwaame (Spirit Moun-
19 tain, Nevada) to Avikwlal (Pilot Knob, California).

20 “(2) CONSULTATION.—The Secretary shall con-
21 sult on the development and implementation of the
22 tribal cultural resources management plan under
23 paragraph (1) with—

24 “(A) each of—

25 “(i) the Chemehuevi Indian Tribe;

1 “(ii) the Hualapai Tribal Nation;
2 “(iii) the Fort Mojave Indian Tribe;
3 “(iv) the Colorado River Indian
4 Tribes;
5 “(v) the Quechan Indian Tribe; and
6 “(vi) the Cocopah Indian Tribe; and
7 “(B) the Advisory Council on Historic
8 Preservation.
9 “(3) RESOURCE PROTECTION.—The tribal cul-
10 tural resources management plan developed under
11 paragraph (1) shall be—
12 “(A) based on a completed tribal cultural
13 resources survey; and
14 “(B) include procedures for identifying,
15 protecting, and preserving petroglyphs, ancient
16 trails, intaglios, sleeping circles, artifacts, and
17 other resources of cultural, archaeological, or
18 historical significance in accordance with all ap-
19 plicable laws and policies, including—
20 “(i) chapter 2003 of title 54, United
21 States Code;
22 “(ii) Public Law 95–341 (commonly
23 known as the ‘American Indian Religious
24 Freedom Act’) (42 U.S.C. 1996);

1 “(iii) the Archaeological Resources
2 Protection Act of 1979 (16 U.S.C. 470aa
3 et seq.);

4 “(iv) the Native American Graves
5 Protection and Repatriation Act (25
6 U.S.C. 3001 et seq.); and

7 “(v) Public Law 103–141 (commonly
8 known as the ‘Religious Freedom Restora-
9 tion Act of 1993’) (42 U.S.C. 2000bb et
10 seq.).

11 “(d) WITHDRAWAL.—Subject to valid existing rights,
12 all Federal land within the area administratively with-
13 drawn and known as the ‘Indian Pass Withdrawal Area’
14 is permanently withdrawn from—

15 “(1) all forms of entry, appropriation, or dis-
16 posal under the public land laws;

17 “(2) location, entry, and patent under the min-
18 ing laws; and

19 “(3) right-of-way leasing and disposition under
20 all laws relating to minerals or solar, wind, or geo-
21 thermal energy.

22 **“SEC. 1704. RELEASE OF FEDERAL REVERSIONARY LAND**
23 **INTERESTS.**

24 “(a) DEFINITIONS.—In this section:

1 “(1) 1932 ACT.—The ‘1932 Act’ means the Act
2 of June 18, 1932 (47 Stat. 324, chapter 270).

3 “(2) DISTRICT.—The ‘District’ means the Met-
4 ropolitan Water District of Southern California.

5 “(b) RELEASE.—Subject to valid existing claims per-
6 fected prior to the effective date of the 1932 Act and the
7 reservation of minerals set forth in the 1932 Act, the Sec-
8 retary shall release, convey, or otherwise quitclaim to the
9 District, in a form recordable in local county records, and
10 subject to the approval of the District, after consultation
11 and without monetary consideration, all right, title, and
12 remaining interest of the United States in and to the land
13 that was conveyed to the District pursuant to the 1932
14 Act or any other law authorizing conveyance subject to
15 restrictions or reversionary interests retained by the
16 United States, on request by the District.

17 “(c) TERMS AND CONDITIONS.—A conveyance au-
18 thorized by subsection (b) shall be subject to the following
19 terms and conditions:

20 “(1) The District shall cover, or reimburse the
21 Secretary for, the costs incurred by the Secretary to
22 make the conveyance, including title searches, sur-
23 veys, deed preparation, attorneys’ fees, and similar
24 expenses.

1 “(2) By accepting the conveyances, the District
2 agrees to indemnify and hold harmless the United
3 States with regard to any boundary dispute relating
4 to any parcel conveyed under this section.”.

5 **SEC. 3. VISITOR CENTER.**

6 Title IV of the California Desert Protection Act of
7 1994 (16 U.S.C. 410aaa–21 et seq.) is amended by adding
8 at the end the following:

9 **“SEC. 408. VISITOR CENTER.**

10 “(a) IN GENERAL.—The Secretary may acquire not
11 more than 5 acres of land and interests in land, and im-
12 provements on the land and interests, outside the bound-
13 aries of Joshua Tree National Park, in the unincorporated
14 village of Joshua Tree, for the purpose of operating a vis-
15 itor center.

16 “(b) BOUNDARY.—The Secretary shall modify the
17 boundary of the park to include the land acquired under
18 this section as a noncontiguous parcel.

19 “(c) ADMINISTRATION.—Land and facilities acquired
20 under this section—

21 “(1) may include the property owned (as of the
22 date of enactment of this section) by the Joshua
23 Tree National Park Association and commonly re-
24 ferred to as the ‘Joshua Tree National Park Visitor
25 Center’;

1 “(2) shall be administered by the Secretary as
2 part of the park; and

3 “(3) may be acquired only with the consent of
4 the owner, by donation, purchase with donated or
5 appropriated funds, or exchange.”.

6 **SEC. 4. CALIFORNIA STATE SCHOOL LAND.**

7 Section 707 of the California Desert Protection Act
8 of 1994 (16 U.S.C. 410aaa–77) is amended—

9 (1) in subsection (a)—

10 (A) in the first sentence—

11 (i) by striking “Upon request of the
12 California State Lands Commission (here-
13 inafter in this section referred to as the
14 ‘Commission’), the Secretary shall enter
15 into negotiations for an agreement” and
16 inserting the following:

17 “(1) IN GENERAL.—The Secretary shall nego-
18 tiate in good faith to reach an agreement with the
19 California State Lands Commission (referred to in
20 this section as the Commission).”; and

21 (ii) by inserting “, national monu-
22 ments,” after “more of the wilderness
23 areas”; and

1 (B) in the second sentence, by striking
2 “The Secretary shall negotiate in good faith to”
3 and inserting the following:

4 “(2) AGREEMENT.—To the maximum extent
5 practicable, not later than 10 years after the date of
6 enactment of this title, the Secretary shall”;

7 (2) in subsection (b)(1), by inserting “, national
8 monuments,” after “wilderness areas”; and

9 (3) in subsection (c), by adding at the end the
10 following:

11 “(5) SPECIAL DEPOSIT FUND ACCOUNT.—

12 “(A) IN GENERAL.—Assembled land ex-
13 changes may be used to carry out this section
14 through the sale of surplus Federal property
15 and subsequent acquisitions of State school
16 land.

17 “(B) RECEIPTS.—Past and future receipts
18 from the sale of property described in sub-
19 section (a), less any costs incurred related to
20 the sale, shall be deposited in a Special Deposit
21 Fund Account established in the Treasury.

22 “(C) USE.—Funds accumulated in the
23 Special Deposit Fund Account may be used by
24 the Secretary, without an appropriation, to ac-

1 quire State school lands or interest in the land
2 consistent with this section.”.

3 **SEC. 5. DESIGNATION OF WILD AND SCENIC RIVERS.**

4 Section 3(a) of the Wild and Scenic Rivers Act (16
5 U.S.C. 1274(a)) is amended—

6 (1) in paragraph (196), by striking subpara-
7 graph (A) and inserting the following:

8 “(A)(i) The approximately 1.4-mile seg-
9 ment of the Amargosa River in the State of
10 California, from the private property boundary
11 in sec. 19, T. 22 N., R. 7 E., to 100 feet down-
12 stream of Highway 178, to be administered by
13 the Secretary of the Interior as a scenic river
14 as an addition to the wild and scenic river seg-
15 ments of the Amargosa River on publication by
16 the Secretary of a notice in the Federal Reg-
17 ister that sufficient inholdings within the
18 boundaries of the segments have been acquired
19 as scenic easements or in fee title to establish
20 a manageable addition to those segments.

21 “(ii) The approximately 6.1-mile segment
22 of the Amargosa River in the State of Cali-
23 fornia, from 100 feet downstream of the State
24 Highway 178 crossing to 100 feet upstream of
25 the Tecopa Hot Springs Road crossing, to be

1 administered by the Secretary of the Interior as
2 a scenic river.”; and

3 (2) by adding at the end the following:

4 “(213) SURPRISE CANYON CREEK, CALI-
5 FORNIA.—

6 “(A) IN GENERAL.—The following seg-
7 ments of Surprise Canyon Creek in the State of
8 California, to be administered by the Secretary
9 of the Interior:

10 “(i) The approximately 5.3 miles of
11 Surprise Canyon Creek from the con-
12 fluence of Frenchman’s Canyon and Water
13 Canyon to 100 feet upstream of Chris
14 Wicht Camp, as a wild river.

15 “(ii) The approximately 1.8 miles of
16 Surprise Canyon Creek from 100 feet up-
17 stream of Chris Wicht Camp to the south-
18 ern boundary of sec. 14, T. 21 N., R. 44
19 E., as a recreational river.

20 “(B) EFFECT ON HISTORIC MINING STRUC-
21 TURES.—Nothing in this paragraph affects the
22 historic mining structures associated with the
23 former Panamint Mining District.

24 “(214) DEEP CREEK, CALIFORNIA.—

1 “(A) IN GENERAL.—The following seg-
2 ments of Deep Creek in the State of California,
3 to be administered by the Secretary of Agri-
4 culture:

5 “(i) The approximately 6.5-mile seg-
6 ment from 0.125 mile downstream of the
7 Rainbow Dam site in sec. 33, T. 2 N., R.
8 2 W., to 0.25 miles upstream of the Road
9 3N34 crossing, as a wild river.

10 “(ii) The 0.5-mile segment from 0.25
11 mile upstream of the Road 3N34 crossing
12 to 0.25 mile downstream of the Road
13 3N34 crossing, as a scenic river.

14 “(iii) The 2.5-mile segment from 0.25
15 miles downstream of the Road 3 N. 34
16 crossing to 0.25 miles upstream of the
17 Trail 2W01 crossing, as a wild river.

18 “(iv) The 0.5-mile segment from 0.25
19 miles upstream of the Trail 2W01 crossing
20 to 0.25 mile downstream of the Trail
21 2W01 crossing, as a scenic river.

22 “(v) The 10-mile segment from 0.25
23 miles downstream of the Trail 2W01 cross-
24 ing to the upper limit of the Mojave dam

1 flood zone in sec. 17, T. 3 N., R. 3 W., as
 2 a wild river.

3 “(vi) The 11-mile segment of Hol-
 4 comb Creek from 100 yards downstream of
 5 the Road 3N12 crossing to .25 miles down-
 6 stream of Holcomb Crossing, as a rec-
 7 reational river.

8 “(vii) The 3.5-mile segment of the
 9 Holcomb Creek from 0.25 miles down-
 10 stream of Holcomb Crossing to the Deep
 11 Creek confluence, as a wild river.

12 “(B) EFFECT ON SKI OPERATIONS.—Noth-
 13 ing in this paragraph affects—

14 “(i) the operations of the Snow Valley
 15 Ski Resort; or

16 “(ii) the State regulation of water
 17 rights and water quality associated with
 18 the operation of the Snow Valley Ski Re-
 19 sort.

20 “(215) WHITEWATER RIVER, CALIFORNIA.—
 21 The following segments of the Whitewater River in
 22 the State of California, to be administered by the
 23 Secretary of Agriculture and the Secretary of the In-
 24 terior, acting jointly:

1 “(A) The 5.8-mile segment of the North
2 Fork Whitewater River from the source of the
3 River near Mt. San Gorgonio to the confluence
4 with the Middle Fork, as a wild river.

5 “(B) The 6.4-mile segment of the Middle
6 Fork Whitewater River from the source of the
7 River to the confluence with the South Fork, as
8 a wild river.

9 “(C) The 1-mile segment of the South
10 Fork Whitewater River from the confluence of
11 the River with the East Fork to the section line
12 between sections 32 and 33, T. 1 S., R. 2 E.,
13 as a wild river.

14 “(D) The 1-mile segment of the South
15 Fork Whitewater River from the section line be-
16 tween sections 32 and 33, T. 1 S., R. 2 E., to
17 the section line between sections 33 and 34, T.
18 1 S., R. 2 E., as a recreational river.

19 “(E) The 4.9-mile segment of the South
20 Fork Whitewater River from the section line be-
21 tween sections 33 and 34, T. 1 S., R. 2 E., to
22 the confluence with the Middle Fork, as a wild
23 river.

24 “(F) The 5.4-mile segment of the main
25 stem of the Whitewater River from the con-

1 fluence of the South and Middle Forks to the
 2 San Gorgonio Wilderness boundary, as a wild
 3 river.

4 “(G) The 3.6-mile segment of the main
 5 stem of the Whitewater River from the San
 6 Gorgonio Wilderness boundary to .25 miles up-
 7 stream of the southern boundary of section 35,
 8 T. 2 S., R. 3 E., as a recreational river.”.

9 **SEC. 6. CONFORMING AMENDMENTS.**

10 (a) **SHORT TITLE.**—Section 1 of the California
 11 Desert Protection Act of 1994 (16 U.S.C. 410aaa note;
 12 Public Law 103–433) is amended by striking “1 and 2,
 13 and titles I through IX” and inserting “1, 2, and 3, titles
 14 I through IX, and titles XIII through XVIII”.

15 (b) **DEFINITIONS.**—The California Desert Protection
 16 Act of 1994 (Public Law 103–433; 108 Stat. 4481) is
 17 amended by inserting after section 2 the following:

18 **“SEC. 3. DEFINITIONS.**

19 “**In titles XIII through XVIII:**

20 “(1) **CONSERVATION AREA.**—The term ‘Con-
 21 servation Area’ means the California Desert Con-
 22 servation Area.

23 “(2) **SECRETARY.**—The term ‘Secretary’
 24 means—

1 “(A) with respect to land under the juris-
2 diction of the Secretary of the Interior, the Sec-
3 retary of the Interior; and

4 “(B) with respect to land under the juris-
5 diction of the Secretary of Agriculture, the Sec-
6 retary of Agriculture.

7 “(3) STATE.—The term ‘State’ means the State
8 of California.”.

9 (c) ADMINISTRATION OF WILDERNESS AREAS.—Sec-
10 tion 103 of the California Desert Protection Act of 1994
11 (Public Law 103–433; 108 Stat. 4481) is amended—

12 (1) by striking subsection (d) and inserting the
13 following:

14 “(d) NO BUFFER ZONES.—

15 “(1) IN GENERAL.—Congress does not intend
16 for the designation of wilderness areas by this Act—

17 “(A) to require the additional regulation of
18 land adjacent to the wilderness areas; or

19 “(B) to lead to the creation of protective
20 perimeters or buffer zones around the wilder-
21 ness areas.

22 “(2) NONWILDERNESS ACTIVITIES.—Any non-
23 wilderness activities (including renewable energy
24 projects, energy transmission or telecommunications
25 projects, mining, camping, hunting, and military ac-

1 tivities) in areas immediately adjacent to the bound-
 2 ary of a wilderness area designated by this Act shall
 3 not be restricted or precluded by this Act, regardless
 4 of any actual or perceived negative impacts of the
 5 nonwilderness activities on the wilderness area, in-
 6 cluding any potential indirect impacts of nonwilder-
 7 ness activities conducted outside the designated wil-
 8 derness area on the viewshed, ambient noise level, or
 9 air quality of wilderness area.”;

10 (2) in subsection (f), by striking “designated by
 11 this title and” inserting “, potential wilderness
 12 areas, special management areas, and national
 13 monuments designated by this title or titles XIII
 14 through XVIII”; and

15 (3) in subsection (g), by inserting “, a potential
 16 wilderness area, a special management areas, or na-
 17 tional monument” before “by this Act”.

18 (d) JUNIPER FLATS.—Title VII of the California
 19 Desert Protection Act of 1994 (Public Law 103–433; 108
 20 Stat. 4497) is amended by adding at the end the following
 21 new section:

22 **“SEC. 712. JUNIPER FLATS.**

23 “Development of renewable energy generation facili-
 24 ties (excluding rights-of-way or facilities for the trans-
 25 mission of energy and telecommunication facilities and in-

1 frastructure) is prohibited on the approximately 28,000
 2 acres of Federal land generally depicted as ‘BLM Land
 3 Withdrawn from Energy Development and Power Genera-
 4 tion’ on the map entitled ‘Juniper Flats’ and dated Sep-
 5 tember 21, 2015.”.

6 (e) CALIFORNIA MILITARY LANDS WITHDRAWAL
 7 AND OVERFLIGHTS ACT OF 1994.—

8 (1) FINDINGS.—Section 801(b)(2) of the Cali-
 9 fornia Military Lands Withdrawal and Overflights
 10 Act of 1994 (16 U.S.C. 410aaa–82 note; Public Law
 11 103–433) is amended by inserting “, special man-
 12 agement areas, potential wilderness areas,” before
 13 “and wilderness areas”.

14 (2) OVERFLIGHTS; SPECIAL AIRSPACE.—Section
 15 802 of the California Military Lands Withdrawal
 16 and Overflights Act of 1994 (16 U.S.C. 410aaa–82)
 17 is amended—

18 (A) in subsection (a), by inserting “or spe-
 19 cial management areas” before “designated by
 20 this Act”;

21 (B) in subsection (b), by inserting “or spe-
 22 cial management areas” before “designated by
 23 this Act”; and

24 (C) by adding at the end the following:

1 “(d) DEPARTMENT OF DEFENSE FACILITIES.—
2 Nothing in this Act alters any authority of the Secretary
3 of Defense to conduct military operations at installations
4 and ranges within the California Desert Conservation
5 Area that are authorized under any other provision of
6 law.”.

7 (f) CLARIFICATION REGARDING FUNDING.—No addi-
8 tional funds are authorized to carry out the requirements
9 of this Act and the amendments made by this Act. Such
10 requirements shall be carried out using amounts otherwise
11 authorized.

